



King County
Office of Public Defense

Core Principles to Guide Creation of a County Public Defense Agency

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I. King County's Commitment to Quality Public Defense Services

The origins of public defense in King County can be traced to the landmark U.S. Supreme Court decision in 1963 that required state courts to provide counsel in criminal cases for defendants who are unable to afford to pay for their own attorneys. In 1970, the King County Council declared that publicly-financed legal services should be provided to the indigent. In 1973, in keeping with the then-prevailing policy to contract out for delivery of many public services, the Council authorized contracts for public defense with four private non-profit agencies.

For nearly 40 years, King County has consistently demonstrated its commitment to delivering effective public defense that focuses on client representation. As a result of the County's values and the commitment of the attorneys and staff of the private nonprofit organizations, King County has earned a reputation as a national leader in providing effective public defense.

In August 2011, the Washington State Supreme Court ruled in *Dolan v. King County* that the four nonprofit public defense organizations with whom the county contracts for public defense services are "arms and agencies" of King County and not independent contractors. The Supreme Court determined that the *Dolan* class, which includes all current and former employees of the nonprofit public defense organizations, are employees of the County for purposes of membership in the Public Employees Retirement System (PERS). Following the Washington State Supreme Court's decision, the trial court required current public defense employees to be enrolled in PERS, which happened in April 2012. Since that time, the County has been negotiating with the attorneys representing the *Dolan* class on a settlement agreement related to implementing the Court's ruling.

In December 2012, King County and the attorneys representing the *Dolan* class reached agreement on a proposed settlement. The settlement must be approved by the Metropolitan King County Council and by Pierce County Superior Court Judge John R. Hickman. Among other things, the settlement provides that individuals who are employed by the public defense organizations on June 30, 2013 will be recognized as King County employees with full benefits starting July 1, 2013. How King County implements this condition of the proposed settlement and how it organizes the public defense system is left up to King County and is not a part of the settlement. The County has, however, made the determination that it is untenable and without precedent to have hundreds of County employees working for several large private organizations.

King County Executive Dow Constantine has directed David Chapman, Director of the King County Office of Public Defense, to develop a detailed proposal to create a County public defense agency staffed by King County employees as the mechanism to implement the proposed settlement. The Executive directed that the proposal should be designed around three core principles, all derived from the American Bar Association's Ten Principles of a Public Defense Delivery System, attached as Appendix A to this document, to ensure that the County maintains or exceeds the high quality of public defense services that public defense attorneys and staff have delivered and to which King County has long been committed. Those three principles are:

- Independence from political influence
- Support for a quality workforce and performance, and
- Maximizing resources, value, and operational efficiency

In support of those values, the Executive has directed that stakeholder input be sought on a management framework that contains three key elements:

- Creation of a new Executive branch department for public defense, accountable to the County Executive that can increase the voice and role of public defense within the criminal justice system.
- Creation of two divisions within the new department, staffed by attorneys and support staff, to prevent conflicts of interest in complex cases that may involve multiple defendants or multiple charges. Staff in the two divisions would be projected to handle about 90 percent of the caseload, with the remaining 10 percent continued to be handled by assigned counsel, as needed.
- Creation of a Public Defense Advisory Committee to provide additional assurance of independence for King County's public defense function, with membership on that committee to be determined.

This report articulates how the planning conducted thus far reflects the Executive's core principles, and how he expects these values to be incorporated into the proposal he will transmit to the Metropolitan King County Council in the first quarter of 2013 for adoption. The timeline for these transmittals is:

- Settlement transmittal – The Executive will transmit the proposed *Dolan* settlement to the County Council in early January 2013. If approved by the Council, the settlement will then be presented to Pierce County Superior Court Judge John R. Hickman. With the proposed settlement, the Executive will also transmit a motion seeking concurrence from the Council to proceed with development of an organization based on the principles outlined above.
- Organizational model transmittal – The Executive will transmit a more detailed proposal for creating a new public defense organizational model to the Council in February.
- Implementation plan transmittal -- Specific measures for implementation would follow later in the year.

Background

Over the past quarter century, King County has continually sought to improve the quality and efficiency of public defense services. Over that time, the County has commissioned three studies conducted by The Spangenberg Group, an independent organization renowned for its expertise in best practices to guide progressive and constitutional public defense service delivery. The Spangenberg studies examined the County's model of contracting with four private public defense organizations, how that model could be improved and alternative service delivery models King County could consider. This report draws broadly from the Spangenberg studies.

In addition, the County has recently conducted a survey of state and county jurisdictions of similar size to King County to understand their public defense service models, source of funding, case practice areas served, and the management of case conflicts. The County surveyed mechanisms other jurisdictions utilize for quality control, accountability, transparency, and independence. The County also asked each jurisdiction to provide a frank self-assessment of its system's strengths and weaknesses. The County can benefit from the experience of other jurisdictions that have converted their operations from a contract model to a primary county service delivery model over the last decade. Appendix C includes the survey results for Washington counties and Appendix D includes the survey results for state operated systems and counties in other states.

In addition to this survey work, Director Chapman has begun outreach to a variety of stakeholders to solicit their input on public defense models, principles, and operational issues. Outreach thus far has included the directors of the four private public defense organizations, public defense attorneys, and the courts. This outreach will continue and expand in 2013 to include labor unions, bar leaders, and other governments served by the same public defense organizations providing service to the County.

Finally, the County has reviewed state and national guidelines for the delivery of public defense services. The Executive's core principles are consistent with these guidelines and the feasibility and benefits of providing King County public defense through a county public defense agency is supported by them.

II. Public Defense Strategic Framework

The public defense strategic direction is informed by the King County Strategic Plan (KCSP) and the Justice and Safety Goal in the KCSP contains several objectives and strategies that require a vital and effective public defense system. In particular:

- Ensure fair and accessible justice systems (Objective 2)
- Ensure the availability of public defenders for those who need them (Objective 2 /Strategy D)
- Ensure that offending individuals are appropriately detained or sanctioned (Objective 3) through advocating for their clients during the plea bargaining and sentencing processes, and actively promoting alternatives to incarceration for eligible clients (Strategy C and D)

The Health and Human Potential Goal also is crucial to the work of Public Defense.

- Facilitate access to programs that reduce or prevent involvement in the criminal justice, crisis mental health and emergency medical systems, and promote stability to individuals currently involved in those systems. (Objective 4/Strategy A)

The Financial Stewardship Goal to exercise sound financial management and build King County's long-term fiscal strength is necessarily a part of all Public Defense organizational efforts to plan for:

- The long-term sustainability of this county service (Strategy 2); and,
- Determining the actual cost reductions as a result of implementation of efficiencies enacted. (Measure 2)

The following proposed Mission, Vision, Goals and Objectives for the Office of Public Defense (OPD) build upon these priorities in the KCSP.

A. Mission

The King County Office of Public Defense shall provide the highest level of legal representation and advocacy through an independent, well-trained, responsible, and efficient public defender system.

B. Vision

King County's unified public defense system is nationally renowned for safeguarding the rights of indigent individuals and advancing a balanced system of justice through promoting equality and protecting the constitutional and legal rights of all members of our community.

C. Values

- We respect our clients, protect their dignity, and safeguard their privacy.
- We are determined that due process is applied equally to all.
- We work within the Rules of Professional Responsibility understanding our duties to our clients, the court and opposing counsel.
- We are advocates for people who are poor and underprivileged.
- We are leaders in the Justice Community.
- We place clients at the center of our work.
- We constantly strive with our partners in the justice community to explore innovative approaches that achieve a fair and accessible justice system and treat the needs of our clients at reasonable cost

D. Goals and Objectives

Goal 1: To provide quality, effective legal representation to all eligible persons

- Objective 1: Clients are informed about their case and become empowered to make decisions
- Objective 2: Clients receive a timely and expeditious defense
- Objective 3: Holistic, client-centered strategies are used on all cases

Goal 2: To promote the integrity and fairness of the justice system

- Objective 1: Exercise sound financial management and build long-term fiscal strength for public defense
- Objective 2: Advocate for and promote policies that support public defense and the legal rights of people accused of crimes
- Objective 3: Increase awareness of issues pertaining to the justice system and its processes

E. Performance Measures

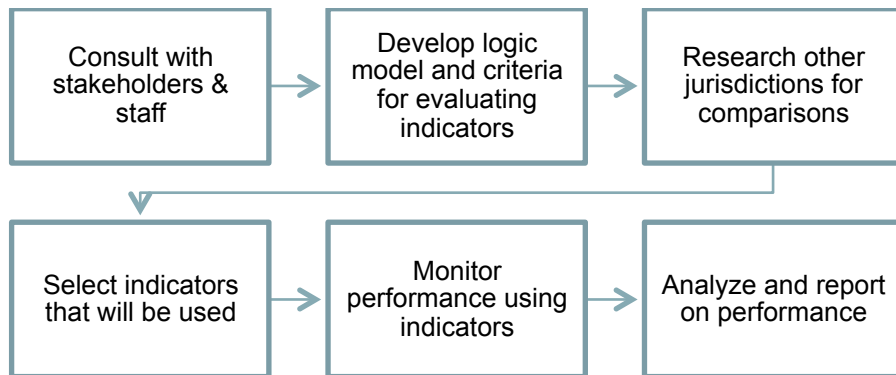
The OPD believes that successful performance measures are linked to a clear and comprehensive set of goals and objectives based on the mission and responsibilities of the organization. We also believe that these measures should be client-centered and have grounding in community and stakeholders' needs.

Performance measures are vital to public defense as they provide benchmarks from which to measure achievement and to assess the effectiveness and efficiency of operations. Identifying meaningful performance measures for public defense has been challenging due to the multiple factors and interconnected systems that can impact the outcome of a case and which make it difficult to discern the factors for which attorneys or other staff should be held accountable. While there are mitigating factors in any process, attorneys and staff should be held accountable for those factors that are within their control and that impact the goals and objectives of OPD.

Most importantly, to be the most effective, performance measures should be developed from the input and participation of all stakeholders who collectively answer the following questions:

- What should OPD be doing with the resources at its disposal?
- What information is needed to justify funding requests, respond to complaints or inquiries about performance, or to make management decisions?
- What is the role of leadership in improving public defense?
- What are essential outcomes for public defense?
- What are the best practices and standards for defense work?

Appendix B lists a logic model and key measures for the two goals above and are a combination of outcome, output, quality, and timeliness measures. Further discussion, reflection, and vetting by stakeholders is needed. The Washington State Bar Association Standards for Indigent Defense and all required legal mandates that apply to the provision of indigent defense are incorporated into this framework. The following steps will be used to confirm appropriate performance measures are tracked and reported.



The King County Executive has directed that stakeholder input be sought on this Strategic Framework and the other restructuring aspects of this report reflect the best practices of public defense services. He has directed that any proposal to the Metropolitan King County Council must be designed around best practices for three core values:

- Independence from political influence,
- Support for a quality workforce and performance, and
- Getting the most value, efficiency, and accountability for the public.

III. Independence

The first of the American Bar Association’s Ten Principles of a Public Defense Delivery System is:

“The public defense function, including the selection, funding, and payment of defense counsel, is independent. The public defense function should be independent from political influence and subject to judicial supervision only in the same manner and to the same extent as retained counsel.”

Independence is fundamental to the constitutional guarantee of adequate representation. A public defense system must ensure that case decisions are made solely based on the interest of clients, free from undue political or judicial influence.

Independence can be effectuated under a number of different service delivery models. Historically in King County, independence has operated through contracts with private public defense organizations. Spokane, Whatcom, Pierce, Yakima, and Thurston Counties all have county public defense agencies whose public defenders are able to maintain independence around case decision-making while operating as a county government agency.

In addition to independence related to decision-making in individual cases, public defense must be an equal and effective partner in the criminal justice system. In its 2000 study, the Spangenberg Group cited King County's "lack of a strong policy voice to represent the views of the public defense function" as a critical shortcoming of the current model. With four different public defense organizations as well as an Office of Public Defense within the Department of Community and Human Services in the County's Executive branch, there is not a common policy agenda or a Public Defender who has the authority to act as a peer to other criminal justice partners, such as the courts, the prosecuting attorney, and the sheriff.

Our survey of jurisdictions in Washington and across the country reveal three structural options through which the public defense function can wield policy-level influence. These structural options are:

1. A Public Defender reports directly to the legislative or executive branch of government.
2. A Public Defender is an elected official.
3. Public defense is governed by an Oversight Commission

After a review of various models and structural options, the County Executive has directed development of a plan under which public defense would be consolidated into a stand-alone County agency with the Public Defense Director reporting directly to the Executive as a member of his Cabinet. In addition, the County would establish an Advisory Board to provide additional assurance of independence and advocacy.

Rationale for this approach and analysis of alternative models appears below.

A. Reporting to the Legislative or Executive Branch

In many county public defense systems in Washington State and across the country (such as Maricopa and Los Angeles counties), the public defender reports directly to the jurisdiction's executive or its legislative branch. Currently in King County, the Office of Public Defense is a division of the Department of Community and Human Resources (DCHS). Elevating the Office to a stand-alone County department with the Director in a Cabinet-level position will promote the public defense function as having more equal footing with the Prosecuting Attorney's Office and within the CJ system.

One issue with an executive or legislative branch reporting structure is that it may be difficult for the public defender to maintain independence from the political influence of the council or executive. Political pressures include the challenges of delivering a budget to the political leaders of their jurisdiction and operationally making decisions on fund expenditure when making certain case service considerations and decisions. The County intends to put in place several additional mechanisms to ensure that the appropriate level of resources are available to defenders to provide effective assistance of counsel. These may include a variety of measures employed in other jurisdictions such as policies that require adherence to clear quality standards (see below), having

the courts approve expert witness expenses, and having a separate line-item for extraordinary expenses.

In addition, the Executive has directed development of a plan for an Advisory Board to support the principle of independence for the County public defense function. The County will seek input into the composition, appointment process and scope of responsibilities for the Advisory Board and those will be proposed in the next stages of the implementation plan. Additional details will be available as the County more fully develops its implementation plan and takes into account additional feedback from experts.

B. Elected Public Defenders

Several jurisdictions outside of Washington State have an elected Public Defender. The states of Florida, Tennessee, several Nebraska counties, and a few cities, including San Francisco, elect their public defenders.

As an elected official, the Public Defender is also a peer of the Prosecutor, with the credibility and authority to be an effective advocate for the public defense system. The eighth of the American Bar Association's Ten Principles of a Public Defense Delivery System is that "there is parity between defense counsel and the prosecution with respect to resource and defense counsel is included as an equal partner in the justice system."

While there are instances where an elected public defender model works well, there is also risk that it makes the office more political and challenges the principle of independence. In fact, a 1993 report by the Spangenberg Group gave Nebraska's public defense system poor ratings on independence precisely because many of their counties elected their public defenders. The Spangenberg Group found that the process of running for office, raising money and campaigning makes it more difficult to make case decisions free from political influence. The 2000 Spangenberg Report for King County considered the potential merits of an elected public defender but rejected that approach principally because of concerns that the OPD might be compromised by the political process.

C. Oversight Commissions

In jurisdictions where public defense is not within the Executive or Legislative branch, some jurisdictions maintain independence from judicial and political influence of the public defense function via an independent oversight commission.

For example, the State of Oregon's public defense is in the Judicial branch. The ABA's 10 Principles for a Public Defense System recommends removing oversight of public defense from the judiciary. To address this concern, Oregon established the Public Defense Services Commission (PDSC), an independent commission in the judicial branch to administer Oregon's trial level contract system and state employee appeals division. The Commission is appointed by the Chief Justice of the Oregon Supreme Court.

A similar example is Public Defense Services (PDS) in Washington D.C., created by federal statute and independent of any branch of government. It is governed by an 11 member Board of Trustees that appoints the Director and Deputy Director of the public defender's office.

IV. Supporting a Quality Workforce and Performance

One of the eight goals of the King County Strategic Plan is Quality Workforce: Develop and empower King County government's most valuable asset, our employees. A core principle, therefore, of creating a County public defense agency is ensuring that attorneys and staff are supported to do their work in an efficient, effective and productive manner. Key elements of this for the public defense system are: caseload management, attorney performance reviews, training and effective management of conflict of interest cases.

A. Caseload Management

In establishing a centralized County public defense agency, King County can more effectively manage attorney caseload and ensure that caseload standards are met. There are limits to the number of cases an attorney can handle effectively. Those limits depend on a number of factors, including the type and complexity of the cases, the support resources available to the attorney (i.e., investigators, clerical and paralegal services), and the experience of the attorney. In an attempt to ensure that attorneys have manageable caseloads, and also to allow agencies to budget appropriately each year, jurisdictions have begun to develop caseload management, case credit and case weighting systems. The *Washington State Bar Association Standards for Indigent Defense Services* includes the following caseload limits for full time attorneys:

- 150 Felonies per attorney per year; or
- 300 Misdemeanor cases per attorney per year; or in certain circumstances described below the caseload may be adjusted to no more than 400 cases, depending upon:
 - The caseload distribution between simple misdemeanors and complex misdemeanors; or
 - Jurisdictional policies such as post-filing diversion and opportunity to negotiate resolution of large number of cases as non-criminal violations; or
 - Other court administrative procedures that permit a defense lawyer to handle more cases; or
- 250 Juvenile Offender cases per attorney per year; or
- 80 open Juvenile Dependency cases per attorney; or
- 250 Civil Commitment cases per attorney per year; or
- One Active Death Penalty trial court cases at a time plus a limited number of non death penalty cases compatible with the time demand of the death penalty case and consistent with the professional requirements of Standard 3.2 supra; or
- 36 Appeals to an appellate court hearing a case on the record and briefs per attorney per year. (The 36 standard assumes experienced appellate attorneys handling cases with transcripts of an average length of 350 pages. If attorneys do not have significant appellate experience and/or the average transcript length is greater than 350 pages, the caseload should be accordingly reduced.)

There are as many caseload management systems around the country as there are jurisdictions. Most are ad hoc, and depend on supervisors maintaining a close eye on and a good working relationship with their attorneys. A number of jurisdictions around the country have recently conducted case weighting studies, almost all with the same consulting firm – The Spangenberg Group, which recently joined with the Center of Law, Justice and Society at George Mason University. These case weighting studies are a systematic way to ensure that attorneys are assigned manageable caseloads, allowing adequate attention and care for each individual case. The studies reflect site-specific factors, including severity of the charges, volume of cases, prosecutor plea policies, and

geography (e.g. mountains, large distances), which impact the time and resources necessary to complete a case.

The County contracted with George Mason University, The Spangenberg Project (TSP), for a *King County Washington Public Defender Case Weighting Study*, completed on April 30, 2010. That Study concluded that a common case management system would “Promote collaboration between the public defense bar, the PAO, the courts, and the corrections facilities. By creating a better understanding of the workload and needs of each of these groups, issues surrounding scheduling, case processing, and methods of practice could potentially be alleviated. Although the level of collegiality in King County is better than in many other jurisdictions, communication and collaboration could improve the relationships between the parties and contribute to the quality of the criminal justice system.”

The Study also included the following findings:

1. King County’s case credit system for public defense is a complicated, confusing, and in many ways antiquated approach to establishing attorney workload and compensating public defenders. A simpler model, based on work units, would address many of the weaknesses of the current system.
2. A simpler system would be based on attorney effort. To estimate those figures, TSP has reviewed the current public defender workload through a 12-week time-keeping study of King County public defense attorneys.
3. That research shows public defenders are working an average of 20 percent beyond a typical 40 hour work week. Among other things, a workload distribution system based on attorney work units would help to ensure that expectations for attorneys match their available hours.
4. Notwithstanding the pressures of long hours, TSP concludes that King County public defenders continue to provide effective representation even in the face of several factors that challenge the provision of indigent defense.
5. Those challenges, including prosecutors’ filing practices, increasing case complexity, inadequate staff support, inefficiencies in local practices, and communication problems (among others) will require attention from the County Council and Executive, working in concert with OPD and the public defender agencies, to ensure that the quality of public defense in King County is maintained.
6. These challenges also underscore the uniqueness of King County’s public defense system and caution against blind comparisons of attorney workloads with those from other jurisdictions in which the nature of practice is different. Although King County has rightfully earned a fine reputation for the quality of public defense, the challenges identified in this report raise questions about the sustainability of those standards given present workloads.
7. Implementing a new funding model will require cooperation and proper planning across all spheres of the criminal justice system and County government. But the advantages are many, including a more simplified system, a common ground for understanding attorney effort and compensation, and a more accurate approximation of the time required to provide representation in each of the case types.

Establishing a County public defense agency provides a unique opportunity to address these issues. More centralized control of case management without arbitrary organizational boundaries will allow the County to create efficiencies and reduce the excess burden on attorneys and staff documented in the Case Weighting Study. The potential results include increased employee satisfaction, better access for clients, increased productivity and avoided costs.

B. Attorney Performance Evaluations

King County utilizes performance evaluations to support employee development, address issues with employee satisfaction, and ensure that employees are delivering on our quality service. In moving to a County public defense agency, consistent performance evaluation across all employees will help to ensure that all clients are receiving the quality public defense services they need.

It is difficult to determine quantitatively whether an attorney is providing good defense services to a client. One way is to measure inputs, such as how quickly and/or frequently the attorney meets with the client. Another way is to measure outputs, such as whether a charge was reduced or jail time avoided. Each of these measurements has its limitations, and most jurisdictions opt for some combination of quantitative and qualitative measures as part of an annual performance review.

A County public defense agency model would make it easier for the County to, in consultation with employees, establish targets and support employees in meeting performance measures. Rather than investing time each year evaluating contract compliance, the County agency director could work directly with employees to develop mechanisms to analyze and support the quality of representation.

C. Training

King County is committed to developing and retaining quality employees. Providing training programs is a key component for meeting that commitment.

Many attorneys join public defense offices directly out of law school, with very little experience. Others may specialize in one particular field of law, and therefore may not be familiar with the most current law or investigative techniques in other fields. Defense systems have come under a great deal of criticism as inexperienced lawyers have been asked to take on complex cases without the preparation to do so.

The *Washington State Bar Association Standards for Indigent Defense Services* has defined a standard for attorney training:

“The legal representation plan shall require that attorneys providing public defense services participate in regular training programs on criminal defense law, including a minimum of seven hours of continuing legal education annually in areas relating to their public defense practice.

In offices of more than seven attorneys, an orientation and training program for new attorneys and legal interns should be held to inform them of office procedure and policy. All attorneys should be required to attend regular in-house training programs on developments in criminal law, criminal procedure and the forensic sciences.

Attorneys in civil commitment and dependency practices should attend training programs in these areas. Offices should also develop manuals to inform new attorneys of the rules and procedures of the courts within their jurisdiction.

Every attorney providing counsel to indigent accused should have the opportunity to attend courses that foster trial advocacy skills and to review professional publications and other media.”

In environments of limited resources, few public defense systems, regardless of their model and structure, have the luxury of robust training budgets. However, one of the advantages of a consolidated County agency is that there are economies of scale to be achieved in training.

County control over policy and procedure in areas of training, advancement, IT use, attorney assignment area, staff skills and other day-to-day management of the staff delivering public defense services will result in advancing current and future County directives and initiatives by allowing for consistent application of performance standards and evaluations. County Human Resource (HR) policies would be applied equally. Supervisors would have the same training for performing evaluations, investigations and improvement plans.

D. Managing Conflict of Interest

It is rare that a criminal case is as simple as one person, with no prior charges, accused of a single crime, with no co-defendants. Conflicts of interest such as multiple defendants, multiple charges, prior records, and prior representations are common and defense systems need to have a way to address them in order to ensure that each defendant is given a fair and thorough defense.

Effectively managing cases with conflict of interest is required to provide quality representation at reasonable cost. The County Executive has directed development of a plan that would manage conflict cases through establishing two divisions within OPD. Assuming the current rate of conflicts and assuming that a secondary legal service division will also experience conflicts, the system is designed in which the primary division handles 60 percent of cases, the in-house secondary conflict division handles 30 percent of cases and private bar contracts handle the final 10 percent. In time, and depending on the conflict caseload, the County could consider adding an additional conflict office to increase the in-house capacity to handle these cases.

Many jurisdictions around the country rely heavily on private attorneys to handle conflict cases, but there is growing concern about the quality and cost of representation afforded clients in such systems. A recent study by Harvard University found that private attorneys appointed under the federal Criminal Justice Act fare worse than their Federal Public Defender counterparts, often leading to sentences averaging eight months longer and costing taxpayers \$61 million a year more than salaried public defenders would cost. The economy of scale offered by having cases handled by an office of attorneys rather than individual private attorneys reduces the cost per case.

In Sacramento County, (CA) there is also a separate in-house office to handle conflict cases. With this in-house capacity, only about 12-13 percent of adult cases go out to private attorneys due to conflicts. The percent of juvenile cases that go out to private attorneys due to conflicts is even lower.

Clark County (NV) has essentially two in-house conflict offices. The first is called the Alternate Defenders Office, and was originally created to take conflict cases in order to reduce costs. It operates within the Public Defender's Office. The second is the Special Public Defender (SPD). The eight lawyers in the SPD handle complex conflict cases, capital cases, and cases where a juvenile is charged with murder. All other conflict cases are distributed among three private attorneys who contract with the county for a flat fee of \$4,500 a month.

V. A Model for Maximizing Resources, Value, and Efficiency in Legal Practice and Structure

The proposed operational structure of an in-house King County Public Defense System consists of four sections: centralized administrative services, a primary in-house legal services division, a secondary in-house legal services division, and a conflicts counsel panel.

A. Centralized Administrative Section

The central administrative services section would be comparable to the current OPD administrative system and would perform the primary tasks of eligibility screening, case assignment, expert services processing, providing continuing legal education, and management of budgeting, and public record requests processing. Human resource services are centrally managed by the County's Human Resource Division, and information technology services are centrally managed by the County's Information Technology department. Shifting to an in-house system would add the duties of client intake services.

By centralizing administrative services, OPD will have direct access to client and system-level data and be able to provide effective data and performance management. A centralized administrative section would enable OPD to better coordinate and communicate about public defense issues to other justice system partners and stakeholders, to local, state and national organizations and political entities, and to the general public. Centralizing also expands the reach of continuing legal education. OPD would also be better able to provide direct oversight of legal service delivery and better ensure the standard of service delivery and accountability to clients served, the public, and other justice system partners.

The transition to an in-house system will create a new culture oriented to the goals and objectives of the KCSP and the new combined mission of the OPD that also includes WSBA and State OPD guidelines. To accomplish this change, OPD will need to develop new policies and procedures including: administrative practice protocols for eligibility screening, case assignment, client intake, file opening, data entry, time keeping, and conflict checking, applicable caseload standards and protocols for adhering to RCW 10.101.030 and Washington Supreme Court standards, case-credit model for tracking and assigning attorney workload to a case count model consistent with WSBA Standards and requires.

In order to help with the culture change a schedule and process for attorney and staff training needs to be developed. Human resources will ensure that all transitioning employees receive standard training and orientation that includes anti-discrimination, county ethics, public disclosure, personnel guidelines, change management, and process improvement.

B. Legal Services Sections

Legal services will be split into three sections: primary (PD1), secondary (PD2) and conflict counsel. While actual caseloads will be dependent on the needs and realities of the court and practice area, the primary division will be staffed to provide representation to about 60 percent of the caseload, the secondary staff for about 30 percent of the caseload, and conflict counsel to represent approximately 10 percent of the caseload. The primary and secondary legal services division will be staffed to provide representation at all court locations.

C. Case Units

Case specialization is a primary benefit of consolidating legal services. The primary legal services section will represent all case types and will have a specialized unit for each case type including a unit for death penalty and aggravated murder cases, Drug Diversion Court, and Mental Health Court; the Secondary Section will have a similar but more limited number of units (see Table 1 below).

Table 1. Specialized Case Units

Case Type	Primary	Secondary
Death penalty and Aggravated Murder	Yes	Yes
Major felony and homicide	Yes	Yes
Minor felony	Yes	Yes
Misdemeanor / Appeals from King County District Courts (RALJ)	Yes	Yes
Juvenile Court	Yes	Yes
Juvenile Offender and decline cases	Yes	Yes
Juvenile Drug Court	Yes	Yes
Dependency	Yes	Yes
Family Treatment Court (FTC)	Yes	Yes
Becca	Yes	Limited
Involuntary Treatment Act (ITA) Court	Yes	Limited
Adult Drug Court	Yes	Limited
Mental Health Court	Yes	Limited
Veterans' Court	Yes	Limited
Child Support Enforcement Contempt of Court (COC)	Yes	Limited
Calendar / Attorney of the Day services as needed and as applicable to a given practice area.	Yes	Limited

D. Staffing

Both the primary and secondary sections will be staffed with the appropriate number of supervisors, paralegals and support staff. It is expected that each section will have a litigation director, assistant director, section supervisors for each practice area, staff attorneys and a proportionate number of support, clerical and data entry staff. Table 2 below shows the estimated number of attorneys, supervisors and support staff per case type and location, based on 2013 caseload projections.

Table 2. Proposed Number of Employees per Location

Location/Case Type/ Administration	Atty	Supv	Para- legals	Social Workers	Investi- gators	Clerical	TOTAL FTE
Downtown	62.0	7.0	10.0	7.0	14.0	12.0	112.0
Felony, regular & 593	30.0						
Felony complex	11.0						
Misdemeanor	7.0						
Calendars	14.0						
Harborview	9.0	1.0	2.0	1.0	2.0	2.0	17.0
ITA	9.0						
Jefferson Building	23.0	2.0	4.0	3.0	5.0	5.0	42.0
Dependency	11.0						
Juvenile Offender	8.0						
Becca	2.0						
Calendars	2.0						
Meeker Street Building	44.0	5.0	7.0	6.0	10.0	9.0	81.0
Felony, regular & 593	19.0						
Misdemeanor	7.0						
Dependency	8.0						
Becca	1.0						
Calendars	9.0						
Administration							40.0
Directors							3.0
Assistant Directors							3.0
Finance Management							2.0
HR Management							1.0
Reception							8.0
Clerical							3.0
Confidential Secretaries							3.0
Interviewers							6.0
Coordinators							4.0
PPM II							1.0
PPM III							1.0
PPM IV							1.0
Legal Advisor							1.0
Communications Spec.							1.0
Public Disclosure Officer							1.0
Grand Total	137.0	15.0	23.0	17.0	31.0	28.0	291.0

E. Conflicts

Cases would be assigned to the secondary section primarily if a conflict exists with client on a case represented by counsel in the primary legal services division. Cases not able to be represented by either the primary or secondary legal services divisions due to legal conflicts of interest will be assigned to conflicts counsel. Best practice protocols will be developed to determine how to recognize and minimize case conflicts within practice units. Also, as stated in the Washington State Bar Association (WSBA) standards, KC OPD must ensure that hourly rates are adequate to attract and retain a panel of well qualified and experienced attorneys. Such rates need to cover the attorneys' costs and expenses and, in addition, provide a reasonable fee for their legal services.

VI. Conclusion and Work to be Done

King County's continued commitment to effective public defense is framing all decisions as we move forward in transition.

- King County's commitment includes maintaining current compliance with Washington Supreme Court Standards for Indigent Defense attorneys, and adequate support staffing for high quality public defense services.
- King County's public defense system is nationally renowned for safeguarding the rights of indigent individuals and advancing a balanced system of justice through promoting equality and protecting the constitutional and legal rights of all community members.
- The settlement doesn't change the acclaim of the King County defense system. By making defenders county employees, salary and benefit parity between defenders and their counterparts in the prosecutors' office is finally ensured; a long-standing county and defense attorney policy objective.
- The goal moving forward is to maintain the high quality public defense services to which King County has long been committed while delivering those services in a cohesive, efficient and fiscally responsible fashion.

To help plan and facilitate the merging of public defense roles within King County, a number of work groups will explore specific issues to smooth the way for an effective transition and create the service system to which the County aspires. A process is currently in place to solicit balanced stakeholder participation on many of these groups. To contribute to guiding the future of public defense in King County, please contact Dave Chapman, Director of Public Defense, 206-263-2174; or contact David.Chapman@kingcounty.gov

OPD Transition Workgroup: members represent King County departments responsible for Human Resources, Benefits Payroll and Retirement, Labor Relations, Facilities, Performance, Strategy and Budget, IT CM System and Infrastructure. Each department will assemble ad hoc workgroups to periodically address specific issues and decisions to complete an aspect of transition of staff and services to King County.

IT Case Management System Development Workgroup: members from public defense agencies to explore issues in system design and facilitation of system development, data transfer, security, and utilization.

Public Defense Performance Measurement: members from public defense agencies to review and advise on proposed department goals and objectives, and performance measures in order to answer: What should OPD be doing with the resources at its disposal? What information is needed to answer inquiries about performance, or to make

management decisions? What is the role of leadership in improving public defense?
What are essential outcomes for public defense?

Public Defense Training and Professional Development Workgroup: members from public defense agencies to create the King County professional development program for public defenders and professional support staff.

Juvenile Offender Caseload Workgroup: members from public defense agencies to explore issues related to caseload standards and case process, and provide recommendations for process improvements with regard to best practices.

Becca: CHINS/ARY/Truancy Caseload Workgroup: members from public defense agencies to explore issues related to caseload standards and case process, and provide recommendations for process improvements with regard to best practices.

Dependency Caseload Workgroup: members from public defense agencies to explore issues related to caseload standards and case process, and provide recommendations for process improvements with regard to best practices.

Felony Caseload Workgroup: members from public defense agencies to explore issues related to caseload standards and case process, and provide recommendations for process improvements with regard to best practices.

Misdemeanor Caseload Workgroup: members from public defense agencies to explore issues related to caseload standards and case process, and provide recommendations for process improvements with regard to best practices.

APPENDIX A

ABA Ten Principles of a Public Defense Delivery System¹

1. The public defense function, including the selection, funding, and payment of defense counsel, is independent. The public defense function should be independent from political influence and subject to judicial supervision only in the same manner and to the same extent as retained counsel. To safeguard independence and to promote efficiency and quality of services, a nonpartisan board should oversee defender, assigned counsel, or contract systems. Removing oversight from the judiciary ensures judicial independence from undue political pressures and is an important means of furthering the independence of public defense. The selection of the chief defender and staff should be made on the basis of merit, and recruitment of attorneys should involve special efforts aimed at achieving diversity in attorney staff.
2. Where the caseload is sufficiently high, the public defense delivery system consists of both a defender office and the active participation of the private bar. The private bar participation may include part-time defenders, a controlled assigned counsel plan, or contracts for services. The appointment process should never be ad hoc, but should be according to a coordinated plan directed by a full-time administrator who is also an attorney familiar with the varied requirements of practice in the jurisdiction. Since the responsibility to provide defense services rests with the state, there should be state funding and a statewide structure responsible for ensuring uniform quality statewide.
3. Clients are screened for eligibility, and defense counsel is assigned and notified of appointment, as soon as feasible after clients' arrest, detention, or request for counsel. Counsel should be furnished upon arrest, detention, or request, and usually within 24 hours thereafter.
4. Defense counsel is provided sufficient time and a confidential space within which to meet with the client. Counsel should interview the client as soon as practicable before the preliminary examination or the trial date. Counsel should have confidential access to the client for the full exchange of legal, procedural, and factual information between counsel and client. To ensure confidential communications, private meeting space should be available in jails, prisons, courthouses, and other places where defendants must confer with counsel.
5. Defense counsel's workload is controlled to permit the rendering of quality representation. Counsel's workload, including appointed and other work, should never be so large as to interfere with the rendering of quality representation or lead to the breach of ethical obligations, and counsel is obligated to decline appointments above such levels. National caseload standards should in no event be exceeded, but the concept of workload (i.e., caseload adjusted by factors such as case complexity, support services, and an attorney's nonrepresentational duties) is a more accurate measurement.
6. Defense counsel's ability, training, and experience match the complexity of the case. Counsel should never be assigned a case that counsel lacks the experience or training to handle competently, and counsel is obligated to refuse appointment if unable to provide ethical, high quality representation.
7. The same attorney continuously represents the client until completion of the case. Often referred to as "vertical representation," the same attorney should continuously represent the

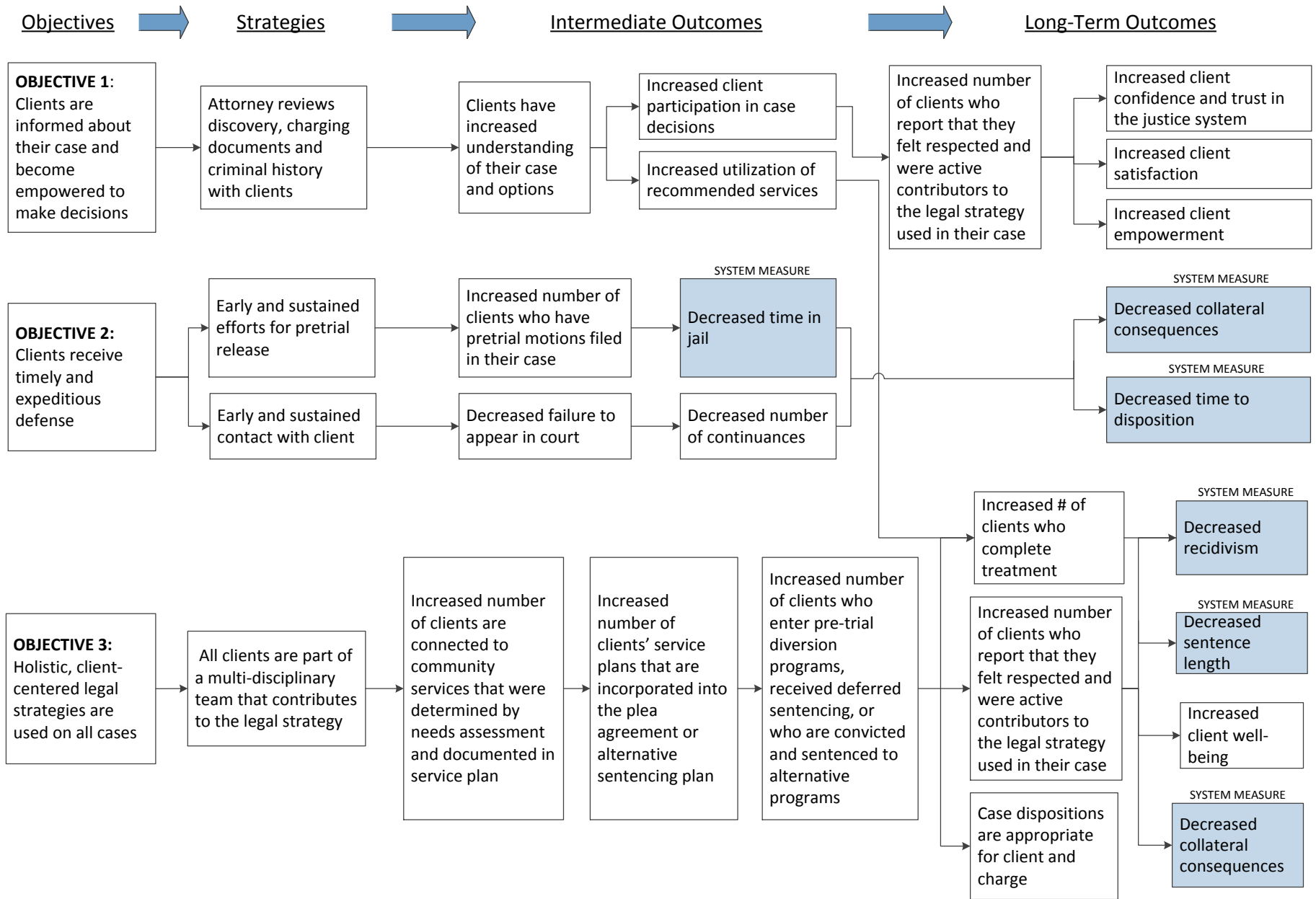
¹ American Bar Association Ten Principles for a Public Defense System, February 2002. Found online: http://www.americanbar.org/content/dam/aba/administrative/legal_aid... · PDF

client from initial assignment through the trial and sentencing. The attorney assigned for the direct appeal should represent the client throughout the direct appeal.

8. There is parity between defense counsel and the prosecution with respect to resources and defense counsel is included as an equal partner in the justice system. There should be parity of workload, salaries and other resources (such as benefits, technology, facilities, legal research, support staff, paralegals, investigators, and access to forensic services and experts) between prosecution and public defense. Assigned counsel should be paid a reasonable fee in addition to actual overhead and expenses. Contracts with private attorneys for public defense services should never be let primarily on the basis of cost; they should specify performance requirements and the anticipated workload, provide an overflow or funding mechanism for excess, unusual, or complex cases, and separately fund expert, investigative, and other litigation support services. No part of the justice system should be expanded or the workload increased without consideration of the impact that expansion will have on the balance and on the other components of the justice system. Public defense should participate as an equal partner in improving the justice system. This principle assumes that the prosecutor is adequately funded and supported in all respects, so that securing parity will mean that defense counsel is able to provide quality legal representation.
9. Defense counsel is provided with and required to attend continuing legal education. Counsel and staff providing defense services should have systematic and comprehensive training appropriate to their areas of practice and at least equal to that received by prosecutors.
10. Defense counsel is supervised and systematically reviewed for quality and efficiency according to nationally and locally adopted standards. The defender office (both professional and support staff), assigned counsel, or contract defenders should be supervised and periodically evaluated for competence and efficiency.

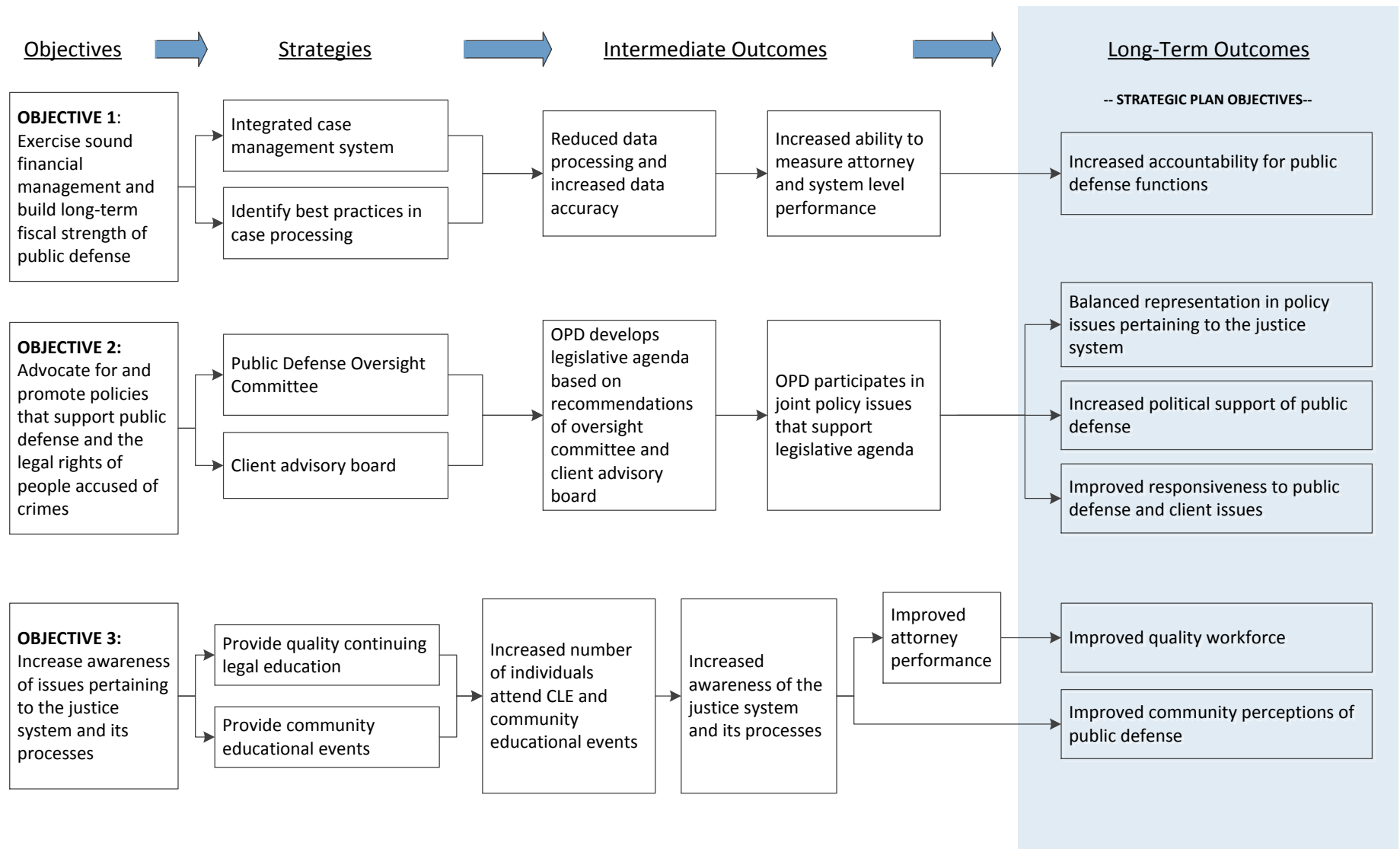
Appendix B – Logic Model and Critical Performance Measures

Goal One: Provide quality, effective legal representation to all eligible persons



Appendix B – Logic Model and Critical Performance Measures

Goal Two: To promote the integrity of the justice system



Appendix B – Logic Model and Critical Performance Measures

Critical Performance Measures

All measures will be disaggregated by race, ethnicity, income, and gender as feasible

Goal 1: To provide quality, effective legal representation to all eligible persons

Objective 1: Clients are informed about their case and become empowered to make decisions

Objective 2: Clients receive a timely and expeditious defense

Objective 3: Holistic, client-centered strategies are used on all cases

Outcomes	Performance Measures
Decreased failure to appear in court	# and % of clients who failed to appear at hearing % of in-custody clients contacted within 24 hours
Increased number of clients connected to community services	# and % of clients who report a need for community services Service utilization rates
Increased number of clients' service plans incorporated into plea agreement or alternative sentencing plan	# and % of cases with a Pre-Sentence Report # and % of cases where treatment or job training, etc. was incorporated into the plea agreement or sentence
Increased number of clients who enter pre-trial diversion programs, received deferred sentencing, or are convicted and sentenced to alternative programs	# and % of clients who enter pre-trial diversion programs, received deferred sentencing or who were convicted and sentenced to alternative program
Increased number of clients who complete treatment	Treatment completion rates
Case dispositions are appropriate for client and charge	# of % of dispositions by case type, type of disposition, and charge
Increased number of clients who report that they felt respected and were active contributors	# and % of clients who report that they were treated fairly # and % of clients who report that they are satisfied with the quality of representation received # and % of clients who report that they contributed to the development of the legal strategy for their case
Decreased recidivism	Rate of re-offense for clients who complete treatment or other alternative programs
Decreased time in jail	Avg days from arrest to release
Decreased sentence length	Sentence length by case type
Decreased collateral consequences	# of % of clients at risk for collateral consequences upon conviction or sustained involvement in justice system (i.e. lose housing, lose custody of

Appendix B – Logic Model and Critical Performance Measures

Outcomes	Performance Measures
	children, lose employment, immigration status) # of % of clients who experienced collateral consequences upon their most recent involvement in the justice system (i.e. lost housing, lose custody of children, lose employment, immigration status)
Decreased time to disposition	Avg days from case filing to disposition

Appendix B – Logic Model and Critical Performance Measures

Critical Performance Measures

All measures will be disaggregated by race, ethnicity, income, and gender as feasible

Goal 2: To promote the integrity of the justice system

Objective 1: Exercise sound financial management and build long-term fiscal strength for public defense

Objective 2: Advocate for and promote policies that support public defense and the legal rights of people accused of crimes

Objective 3: Increase awareness of issues pertaining to the justice system and its processes

Outcomes	Performance Measures
Reduced data processing and increased data sharing	# of justice partners with data sharing agreements
Increased accountability for public defense functions	Demonstrated efficiencies in case management and case processing
Increased awareness of the justice system and its processes	# and % of staff who attend CLE or other training # and % of community who attend CLE or other training # and % of community and staff who report that they have an increased awareness of the justice system and its processes
Improved community perceptions of public defense	# and % of participants who report improved perception of public defense
Balanced representation in policy issues pertaining to the justice system	# of joint policy/ legislative items that include KC OPD participation # of policy initiatives sponsored or led by KC OPD % of CJ committees and task forces that include public defense
Improved responsiveness to public defense and client issues	# of recommendations from client advisory committee that have been acted on by OPD

APPENDIX C – Comparison of Public Defense Systems in Washington State Counties

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APPENDIX C – Comparison of Public Defense Systems in Washington State Counties

Cowlitz County	
In House?	<p>Cowlitz County has transitioned to a hybrid in-house system in the past two years (from all contracts).</p> <p>Felonies: half of cases are handled in-house, half go to 6 private contract lawyers. At the time of the transition to a partially in-house system, these private 5-year contracts were set up, in part to help smooth the transition from all contracts to all in-house. Contracts had all previously been one year. The contracts guarantee 8 cases per month --- paid whether they do them or not (so they always all get 8). Because these are primarily attorneys who have been part of the system for a long time with a lot of experience, the contracts are expensive for the county (in other systems, e.g. Yakima, these contracts are actually cheaper).</p> <p>Juvenile: 1 contract with a private attorney that does about half of the juvenile offender cases (a 2 year contract)</p> <p>State handles all dependency cases.</p>
# of Staff	9 in house
Admin Structure	Public Defender reports to County Commissioners. In-house services, with Office of Public Defender responsible for direct representation, as well as managing conflicts, contracts and expert services funds. Cowlitz County has no county executive, county Public Defender reports directly to County Commissioners as a department head (similar to county prosecutor)
Annual Caseload	
Case Areas Covered	Felonies, complex felonies, misdemeanors. State handles all dependency cases.
Mechanism for Quality Control (Accountability / Transparency)	Informal. By contract, all complaints (for in house & contract attorneys) come to the Public Defender (Mr. Mulligan). However, County Commissioners are still only ones who can terminate a contract (they also wrote/signed) the contracts. So, fields and tries to handle complaints, but little actual authority.
Conflict Representation	<p>Felonies: Most conflict cases are handled by the 6 contract attorneys. A few go to a list, but this is very few.</p> <p>District & Juvenile court: There are 2-3 lawyers on a list for conflicts. Attorneys are paid \$100 hour when working on a case, which helps to encourage case acceptance.</p>

APPENDIX C – Comparison of Public Defense Systems in Washington State Counties

Grant County	
In House?	Since March 2009: Hybrid system: Felonies covered 50% in house, 50% contract.
# of Staff	4 FTE lawyers in house, 4 FTE on contract. Also one receptionist and 1 admin staff in house.
Admin Structure	Felony/Superior Court public defense services provided by in-house public defender, who also oversees conflicts counsel and expert services. Grant County has no separately elected executive; the Public Defender reports directly to the Board of Commissioners. Separate county contracts for District Court services.
Annual Caseload	In 2007: 804 Felonies 6331 Misdemeanors 179 Juvenile cases Case areas include: felonies & misdemeanors, from an individual charge through arraignment. Juvenile: anything through arraignment or diversion (does not discount diversion)
Case Areas Covered	System is based on consent decree / recent settlement agreement. This requires the office only to handle felony cases and civil contempt cases. Decree does not specify delivery system. Misdemeanors are handled via a separate contract system. Civil Commitments are handled through the RSN (Regional Service Network).
Mechanism for Quality Control (Accountability / Transparency)	
Conflict Representation	RCP 10.1 Rule. Do not have conflict walls in the office, so these cases are assigned to individual contract attorneys. Pay \$800 for a felony. ~ 6% of cases go to conflict.

APPENDIX C – Comparison of Public Defense Systems in Washington State Counties

Pierce County	
In House?	In house system has been a county department for ~ 30 years. Reports to County Executive. There is also a small in-house conflict office with 3 lawyers. It is physically situated in a different building. Primarily handles adult felony conflicts.
# of Staff	60-65 attorneys, 100 total staff
Admin Structure	DAC maintains felony, misdemeanor and juvenile divisions and others related to civil practice areas. Each division has a senior supervising attorney. These supervisors, along with DAC's director and chief deputy, provide supervision and oversight of staff attorneys and are responsible for resolving client complaints. In-house Department of Assigned Counsel provides primary services, assigns conflict counsel, and manages expert funding requests. The County Director of Assigned Counsel reports directly to the County Executive.
Annual Budget	~\$14 million, primarily from county GF, with some contribution from State
Case Areas Covered	Felonies, Complex Felonies, Misdemeanor, Dependency, Civil Commitments, Truancy,
Mechanism for Quality Control (Accountability / Transparency)	
Conflict Representation	Small in-house operation with 3 attorneys, and a panel of 50-75 attorneys in private practice.
Skagit County	
In House?	In-house, has been for 19 years.
# of Staff	15, all members of a county union (except management)
Admin Structure	Public Defender reports to County Commissioners. In-house public defense services; director reports directly to the Board of Commissioners, No separately elected executive in county.
Annual Caseload	
Case Areas Covered	Felonies, complex felonies, misdemeanors, dependency & truancy. All civil commitments handled by contract with a single attorney.
Mechanism for Quality Control (Accountability / Transparency)	
Conflict Representation	The Office of Assigned Council, housed in the courts, assigns conflict cases.

APPENDIX C – Comparison of Public Defense Systems in Washington State Counties

Spokane County	
In House?	In house, since 1971. Two agencies (both in-house): § Office of Public Defender (overseen by John Rogers) - ~60 attorneys, mostly unionized. § Counsel for Defense – small agency designed to handle conflict cases
# of Staff	~60 in Public Defenders Office. Several more in Counsel for Defense.
Admin Structure	Public Defender is appointed by 1 county commissioner, 1 superior court judge and a member of the local bar. For more, see Title 36.32, which describes how the PD is selected. In-house public defense system. The Public Defender reports directly to the County Executive. Budget comes from County Commissioners.
Annual Caseload	3331 Felonies; 111 Probation (333 cases, which count 3:1 when calculating caseload) 4819 Misd. 2738 Misd. from a city contract 1121 Misd. prob. violations (3x this, 3:1 for probation cases) 983 Juvenile delinquency 734 Juvenile Probation Violations (3x this, 3:1 for probation cases) 629 Dep. 1097 Civil Commitment hearings (one case could be multiple hearings) 457 Truancy, Becca, Chins etc. (3x this, 3:1 for these cases)
Case Areas Covered	Felony and Misdemeanors, Probation Violations, Juvenile Delinquency Cases, Civil Commitment Cases, Dependency Cases, Truancy cases. Children involved in "At Risk Youth" or "Children in Need of Services" petitions, which are also held in the juvenile division.
Mechanism for Quality Control (Accountability / Transparency)	Try to do annual attorney evaluations, but performance management is reported as not a particular strength of their office.
Conflict Representation	Spokane has 2 public defense agencies in house. Counsel for Defense, handles most Superior Ct. conflict cases. However, they have been around long enough now, that they often have conflicts as well. Spokane is considering a third small in-house agency to handle additional conflicts, as well as several certified capital attorneys. Most District Ct. conflicts are handled through an inter-logical agreement providing that the Public Defender and City of Spokane Public Defender accept each other's conflicts. Public Defender currently makes decision about what is a conflict. Would prefer to have someone else, like the courts making these decisions. Thinks it should happen separately from those handling the cases

APPENDIX C – Comparison of Public Defense Systems in Washington State Counties

Whatcom County													
In House?	In house system since 1982.												
# of Staff	17, including Director and Deputy Director												
Admin Structure	The Public Defender reports to the County Executive. In-house public defense services. Public Defender reports directly to the Executive, as a separate department head. Executive branch oversees budget; no involvement in day to day operational decisions of office.												
Annual Caseload	<p>A case is defined by a cause # per defendant; e.g. If Mr. Smith is charged with 5-10 counts of something on a single cause, it is one case. But, if there are 3 defendants under a single cause, it is 3 cases.</p> <p>6184 total cases in 2008</p> <p><u>Case numbers by type (2008)</u></p> <p>Felonies 1478</p> <p>Superior Court Probation 16</p> <p>District Court Criminal 2851</p> <p>District Court Probation 477</p> <p>Criminal Juvenile 660</p> <p>Juvenile Probation 310</p> <p>Involuntary Mental Health Commitments 332</p> <p>Involuntary Alcohol Commitments 60</p>												
Case Areas Covered	Felonies, complex felonies, misdemeanors, civil commitments. Dependency and truancy handled by Assigned Counsel Agency, staffed by the clerk of the Superior Court. These cases are contracted out. Funding for dependency cases is in Assigned Counsel budget.												
Mechanism for Quality Control (Accountability / Transparency)	Public Defender Advisory Board, which includes a member of the County Council, Superior Court Judge, District Court Judge and several citizen representatives meets a few times a year. Current information about OPD is presented to this group for review.												
Conflict Representation	<p>Conflict cases are handled by an outside panel. Conflicts are reviewed by OPD, and then referred to the Office of Assigned Council (Clerk of the Superior Court) for assignment. Conflict case costs are handled through the Assigned Counsel budget (not OPD).</p> <p>Example number of conflicts handled:</p> <table border="1" style="margin-left: 20px;"> <thead> <tr> <th>Case Type</th> <th>2008</th> <th>2007</th> </tr> </thead> <tbody> <tr> <td>Felonies</td> <td>53</td> <td>71</td> </tr> <tr> <td>Misdemeanors</td> <td>21</td> <td>11</td> </tr> <tr> <td>Juv. Criminal</td> <td>43</td> <td>39</td> </tr> </tbody> </table> <p>Several years ago Whatcom County considered several models for handling conflict cases in house, but found that because they have a relatively small load of conflict cases, it was more economical to use an external list.</p>	Case Type	2008	2007	Felonies	53	71	Misdemeanors	21	11	Juv. Criminal	43	39
Case Type	2008	2007											
Felonies	53	71											
Misdemeanors	21	11											
Juv. Criminal	43	39											

APPENDIX D – Comparison of Public Defense Systems in Other States and Their Counties

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APPENDIX D – Comparison of Public Defense Systems in Other States and Their Counties

Boston	
Jurisdiction Size (2007 population)	574,283 metropolitan area is 1,383,789
In House?	90 percent of cases in lower trial court district court (misdemeanor, lesser felony cases) go out to private counsel, paid on hourly basis (county-managed bar advocate attorneys, non-profit that manages, five day training program), 80 staff attorney in district courts around the state in 2006 opened, 5 years are in district court: followed strike (attorneys stopped taking cases, rates set by legislature, had been kept at \$30/39 an hour for 20 years), crisis in the courts; now at \$50/60/100 an hour for murder
# of Staff	~500
System Funding (Total & Sources)	Whole system is state funded
Annual Caseload Case Areas Covered	Felonies, Complex Felonies, Misdemeanors Dependency cases, mixed system, half a dozen staff office created in 2005, added 17 lawyers in 4 new offices, and already had 2 offices, bulk still going to private attorney, certified by CPCS, there is on equivalent of bar advocate, list to provided to court, civil is done privately, they certify, train, oversee, and we pay
Mechanism for Quality Control (Accountability / Transparency)	Supervisor, performance reviews, serious complaint investigation process, in order to move to superior, both qualitative and quantitative requirements
Conflict Representation	Conflict: given to private counsel after being sent back to the court, assigned counsel
System Strengths & Weaknesses	Strengths: independent of court, able to regulate caseloads, people can put in time necessary to provide representation; fairly sophisticated and comprehensive training program; marshal resources; credibility; money to pay for experts appropriated as separate line item by statute to access, need to file motion in court for expert funds, if judge allows that motion, then expert submits bill to court. People can by and large get experts they need, every year the court authorizes more funds than were appropriated, requiring going a supplemental budget request. Judges have proposed to change this system weakness in order to have more staff counsel and to help to set a standard and pay attorneys comparably. The POA is an elected official, with separate budget not determined by legislature beyond the budget floor and ceiling. There are union negotiated scales on executive branch scales, that defense has tried to match, getting close a couple of years ago with budget increase but salaries are now falling behind again. District and Superior Court office, each has own office head and investigative office. District court offices have MSWs on staff, forensic services director to public and private, immigration impact unit (2 lawyers), small (2 attorney) special litigation unit, small post-conviction appeal (8 staff), mental health litigation unit, special unit for sexually dangerous unit (4 staff attorney), in MA, sex offender registry proceedings by private bar. In the Boston office: admin and governing committee of 15, appointed by the courts, third for family and law, youth advocacy department, delinquency. Three directors: private, public defender, family and law. Legislative/Gubernatorial response, to be completely accurate, credible figures. Independence: never heard that complaint, chief justices that have been on the commission since 1984 are people don't want to mess with what they do, they ask for recommendations from, early on someone tried to get into bill pay, soul interface is appoint committee members, hasn't been politicized – could be, but hasn't.

APPENDIX D – Comparison of Public Defense Systems in Other States and Their Counties

Clark County, Nevada	
Jurisdiction Size (2007 population)	1,865,746
In House?	Yes. Felony track organized according to court in which they appear; appellate division, no misdemeanor office; structure a legacy of the way the court system works.
# of Staff	100 lawyers in 3 physical offices
System Funding (Total & Sources)	Homicide, including death penalty; Sexual assault, including minors and complex; appellate team, jury verdict appeals; juvenile division, delinquency only; alternate defenders office (originally for conflict cases) several years ago took on neglect cases; all other family courts involving children go out to contract; civil commitment (1 day a week), parole revocation (1 day a week) and therapeutic week (1 day a week) on contract
Annual Caseload Case Areas Covered	
Mechanism for Quality Control (Accountability / Transparency)	
Conflict Representation	Special Public Defender, another county office with a separate director, 8 lawyers to handle conflict homicide cases, anything more gets framed out on a contract basis (3 contract private lawyers on a monthly, flat fee \$4500 a month); about a year ago, commission (indigent defense commissioner) was created for new oversight over lawyers, taking it away for courts; commission screens the lawyers; court suggested changes January 2008, but not implemented until some months had past.
System Strengths & Weaknesses	So much is done by tradition; it is very hard and slow to change things, even when the courts and the PD are on the same side.

APPENDIX D – Comparison of Public Defense Systems in Other States and Their Counties

Cook County, IL	
Jurisdiction Size (2007 population)	5,294,664
In House?	Yes. There is one central felony trial facility, all Chicago cases, central bond court included in this facility; 5 suburban locations, all of which handle suburban misdemeanors, felonies, two handle some Chicago felony cases (not murder or sex cases), also DV and traffic cases, handle all the suburban bond cases; Juvenile location (abuse and neglect); Traffic facility; DV in the city facility; Legal resource division for appeals and post-conviction; Forensic science division support. Within all division there is an attorney chief, with at least 1 supervisor, 1:15 to 1:25 ratio. One lead in death penalty cases, 50 on staff. Both vertical and assigned court room representation Beginning attorney on 12 month probationary building, automatically bumped to grade 2, step increased on anniversary (5% plus colas), in addition cap off after about 10 years as a grade 2, mostly misdemeanors; Grade 3 handling felonies, ten year cap before salary caps Two grade 3 in a courtroom and one grade 2 for felony cases, smaller the place the easier to do vertical, at juvenile facility one grade 3 in a courtroom, and 2 at grade 2. On-staff investigators (unionized), third union is support staff
# of Staff	Roughly 470 on staff, 38 supervisors, with 12-15 vacancies at the supervisory level, unionized
System Funding (Total & Sources)	53 million, 1 grant for 1.75 million used for capital cases only, yearly; otherwise county funded
Annual Caseload Case Areas Covered	Same as King County's, but no capital appeals or post-conviction, they do probation violations On pace to handle 250-275 cases, defined by appointment (includes prelims/bonds), appointed to the case, many are bond cases
Mechanism for Quality Control (Accountability / Transparency)	Annual performance reviews
Conflict Representation	One division multiple defendant division, not technically conflict, with a small percentage going out to contract (less than 10 percent for murders)
System Strengths & Weaknesses	Public Defender likes their system, but doesn't like statewide public defender system because state-wide hurts urban areas and taps its resources to handle cases, haven't found a need to fight off attacks on resource, mostly between public health (social) and public safety (constitutional). With resources, whenever adults and juveniles are in the same system, so many more adults, they will win out on resources compared to what is put in juveniles; perhaps they should be separated. Don't have social workers on staff, but sees that as a need, because if you have an MSW on staff, can reach out to schools and get students who can be supervised, by this same token adding an on- staff psychologist would be desirable. Forensic science division is seen as a good addition, one person who does capital case coordinator, and resource lawyers are helpful. Don't do paternity cases at all. Suburban misdemeanor who probably can afford counsel, but affidavit should be enforced. Change in the system works by having all the stakeholders in the room: county board, legal community, position of prestige and purpose of insight in various criminal justice system, even in Springfield. Cook Co PD has a good reputation, sheer number of cases and professionalism, had legislative liaison who does issues on staff, helpful. Relationships (courts, prosecuting attorneys): judges control the courtroom, and they create the atmosphere; depends on vertical or assigned court representation, still operates as a criminal justice community. There are commissions and committees working on equity issues. CJ players know when there are areas of disagreement, but all respect each person's role, which creates openings for compromises.

APPENDIX D – Comparison of Public Defense Systems in Other States and Their Counties

Hennepin County, MN	
Jurisdiction Size (2007 population)	1,140,988
In House?	Yes
# of Staff	116 lawyers, 160 staff in total
System Funding (Total & Sources)	State Board of Public Defense and Hennepin County Board of Commissioners with property tax dollars
Annual Caseload Case Areas Covered	Same as ours, except no mental health, no paternity. 800 felony case units, 780 misdemeanor cases
Mechanism for Quality Control (Accountability / Transparency)	Team leaders (lawyer supervisor), manages the lawyers within their team. There are also case disposition advisors, and performance reviews that include goal and expectation settings.
Conflict Representation	The conflicts division is a separate, internal unit
System Strengths & Weaknesses	Hennepin Public Defender says a unified system is best, that years ago the county got rid of contracts for multiple defenders and created a county-based system geared to handle just about anything. Funding is always an issue, but the county has worked on developing specialty courts, a holistic approach. The county constantly re-examines these courts' performance. County PD is very independent. The director is a state employee, beholden to the country for some financial resources, and to the state board for chiefs. At some point, though, the public defender thinks the county will be completely out of the public defense business.

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Los Angeles County	
Jurisdiction Size (2007 population)	9,862,049
In House?	Yes. The Public Defender (appointed) reports to the Board of Supervisors (elected) via the County Executive (appointed). The county public defender office includes investigators, psychiatric social works and support staff in-house. Court appoints.
# of Staff	~ 635 line attorneys, 30 attorney managers
System Funding (Total & Sources)	\$170 million
Annual Caseload Case Areas Covered	Felonies, misdemeanors, capital cases, juvenile cases. Does not handle dependency, a separate government agency does this work.
Mechanism for Quality Control (Accountability / Transparency)	Annual performance evaluations with close supervision. Supervising attorneys are required to do "case-file documentation review" on a specific number of files every month.
Conflict Representation	A separate government agency handles conflict cases.
System Strengths & Weaknesses	

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Maricopa County, AZ	
Jurisdiction Size (2007 population)	3,954,598
In House?	Yes, although they do contract out contract some conflict cases. 5 offices: Public Defender, Legal Defender (Dependency Unit), Legal Advocate (second dependency unit), Office of Contract Counsel, Juvenile. They have grown into this structure. Fifteen years ago, it was only the public defender, when they added Legal Defender. Nine years ago added Legal Advocate, and about 2 years ago broke out juveniles. Director answers to county manager, who is appointed by board of supervisors.
# of Staff	Roughly 250 attorneys are in the main public defender's office, 75 lawyers in each of the two smaller units, 25 in the juvenile office
System Funding (Total & Sources)	83.8 million, all comes for GF, tax revenues
Annual Caseload Case Areas Covered	Similar to King County, but have highest number of pending capital cases in the country (130), which costs them roughly \$14 million a year. Adult Felony: 53,483 Misdemeanor: 3,000 Appeals: 2,000 Dependencies: 12,000 (assignments, divide by 2.5) Delinquencies: 12,000 Abortion: 200 Mental Health: 2,500
Mechanism for Quality Control (Accountability / Transparency)	There is an attorney evaluation hierarchy in place and conducted annually. Information regarding contract lawyers comes from the courts and is complaint-based. If a complaint is filed the public defender's office will investigate and will not assign another case to the lawyer unless the same judge requests it.
Conflict Representation	Office of Contract Counsel
System Strengths & Weaknesses	Public Defender functions as an Indigenous Defense "czar" and says the "flexibility is amazing, cooperation is great." The defense office no longer struggles to get essential budget approval. PD can move positions around, consolidated central services (for example: a subpoena serving group), which has saved a lot of money. The juvenile office has helped significantly reduce conflict cases. PD office is shielded from the day-to-day operations of the divisions, so has no concerns regarding operational independence. In fact, if there is an internal dispute between a lawyer and director about an expert witness, the dispute goes to the court, not to the PD office. The office has worked hard at building relationships and has become a source of information that people trust.

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Miami-Dade County, FL	
Jurisdiction Size (2007 population)	2,398,245
In House?	Yes. Elected Public Defender. Great credibility, how they relate to people in the public, and to their clients, by circuit not by county, Funding is a huge issue: State is solely responsible for largest part (local is done by building, subpoena service, county) Independence is absolutely essentially to their success, integrity of the process, moral authority of the courts (people on the street might be willing to abide by notion that court results are fair, if they belief both sides are equally supported, otherwise a rigged game) Person in charge of public outreach, lawyers volunteer their time to go out in the community; conduct expungement workshops, assistance having their records sealed and expunged, key to finding employment. Not just about funding, FL public defenders association takes a legislative position on various issues. For instance, juvenile reforms. Extraordinary expenses are provided within a budget for the salaries and benefits. A separate fund, called due process funds, pays for court reporters (litigation related expenses). If they run out of earmarked due process funds, technically have to take from salaries/benefits. Budget issues generally involve salary funds since 90 percent of funds goes to salaries.
# of Staff	185 attorneys and an equal number of support staff, such as investigators, social workers, secretaries, and paralegals. 29% growth, with 12 percent cuts. More attorneys on hand, decriminalizing some misdemeanor offenses, higher starting salary, more opportunity for advancement. May to December 2008 lost 35 lawyers, replaced with 10
System Funding (Total & Sources)	
Annual Caseload Case Areas Covered	Annual cases the office handles are more than 111,000 (defendant has been charged and has been appointed)
Mechanism for Quality Control (Accountability / Transparency)	Supervisory system each division has senior supervisory attorney (9-12 lawyers) 7 full time training lawyers, work with young lawyers, training, look at performance and provide input to senior supervisor Juvenile & misdemeanor, rotate (18 months), felonies from easiest to most complex (C, B, A): At A can pick up homicides.
Conflict Representation	When a conflict is declared, (regional conflict office for dependency cases), then goes to registry for fees set by judges. Because fees have been reduced dramatically over time, there has been questions arising regarding the resulting quality of defense – many assigned counsel are part time. County finds that contracts tend to diminish the prospects for a rigorous defense. There is a process in place for a peer review of lawyers' fees, and in this process saved half a \$million in fees per year, so it has become eventually self-policing Courts screen lawyers, place in units, and discipline.
System Strengths & Weaknesses	Essentially acts as a large law firm and the system generally doesn't want contract defenders, don't want part-time counsel. Client representation becomes questionable when competing for attorney time with paying clients. Expending public funds for people charged with crimes is the most economical way to develop an equitable system. Contracting for defense is difficult and clients and the system may suffer in quality of service. In 1989, the public defender went to county responsible for paying conflict lawyer, but because the firm can file on a large number of cases because there are not the resources to pay contract attorneys on a case-by-case basis, so a preference emerged to provide funds to the law firm. By 2004, 82 of the defense lawyers were paid directly by the county. There is less of a cost to pay salaries than to pay the occupancy days in jail (saved \$6-7 million). Anticipates that litigation in 7 or 8 states regarding resources being provided to public defenders will at some point likely land federal court.

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Sacramento County, CA	
Jurisdiction Size (2007 population)	1,394,154
In House?	Yes. Roughly 1 investigator for every 5 attorneys; Felonies: arraigned, in or out of custody, intake attorney (30) interview 10 each around 80 , wheel and deal them, move the cases quickly, separate trial team (30)
# of Staff	170 staff, with just over 100 attorneys
System Funding (Total & Sources)	roughly \$40 million, \$11 million of which goes for conflict case contracts, 900K of which is used for extraordinary expenses; \$28 million, property tax total general fund, except for 3 attorneys in state prison
Annual Caseload Case Areas Covered	Adult criminal, juvenile delinquency, mental conservatorship, appropriate family law, and probate cases. 35,000 cases
Mechanism for Quality Control (Accountability / Transparency)	Case supervisors are in court, go through what is on their plate, by charge, caliber of attorney, subjective system, supervisors a minimum for 15-20
Conflict Representation	Conflict criminal defenders, which employs roughly 100 people, about 42 cases a month (or 500 cases a year), or 12-13 percent of cases go out to contract in adult cases a year (juveniles are lowers).
System Strengths & Weaknesses	Collations with court, DA and our office 3 managers, head public defender; 104 attorney who are full time civil servants and get to 105K within 4 years Succeed because 25,000 misdemeanors at arraignment, 25 attorneys in the courtroom, DA turns over entire file, police report, within 3 minutes interviewing full interview, walk across talk to DA, try to settle or plead within an hour, lots of alternative sentencing, if it isn't settled with 90 days to jury trial, they win, better the offer 80% of the time, last offer to after verdict. Juvenile system: kids are arrested, interviewed that morning, and defender works toward their release, with cases continuing at least a week or two to settle. Prop 21: spend a lot of time fighting remand, direct file at 16 with a gun Accountability, ethics, efficiency, strong leadership, strong standards, well paid, standard of living are included in budget considerations each year.

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State of Oregon	
Jurisdiction Size (2007 population)	
In House?	State-wide contract system including a) a full time appellate staff of ~ 40 attorneys who handle juvenile, criminal and dependency appeals b) An office than manages ~ 100 contracts for all of the trial-level public defense work for the state. Was part of the Judicial Department until 2003, when new office was formed. Varies by contract.
# of Staff	~ 40 appellate attorneys
System Funding (Total & Sources)	100% state funded
Annual Caseload Case Areas Covered	Felony, misdemeanors, dependency, civil commitment, juvenile, truancy
Mechanism for Quality Control (Accountability / Transparency)	Use two site visit processes. a) A peer review panel of 6-7 well respected attorneys perform a site visit, assessing a local system (interview courts, probation officers, contract public defenders etc.), then provide advice and recommendations to the public defenders (contract agency, or consortium). About half the contractors have been peer reviewed over the past 5 years, reporting good experiences with the process. A bonus is that the reviewing attorneys also report learning something new with each review, engaging more people in the process b) The other half of the contract agencies/consortia have received Service Delivery Reviews by the Public Defense Commission. The Commissioners conduct a similar process, but one that is focused less on the individual contractors and more on the system as a whole. Three years ago, the review of a low-performing Salem contract consortium led to the Commission providing seed money for a non-profit public defender’s agency in the area. With the introduction of competition for the contracts, the consortium made significant changes, including rigorous quality-control measures and practices. Oregon also has a Contractor Advisory Group made up of contractors, and a Quality Assurance Taskforce of 8 contract reps who oversee the site visit process.
Conflict Representation	Consortiums handle conflicts internally, distributing the work amongst other attorneys in the group. A consortium is only paid once for a case, even when it is transferred to a second attorney. When a case gets transferred from a non-profit to a consortium or vice versa, or to a private attorney on a list, both agencies/individuals get paid. The courts decide when a conflict exists.
System Strengths & Weaknesses	

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State of Virginia	
Jurisdiction Size (2007 population)	7,078,515
In House?	Yes
# of Staff	540 including support staff (1,793 private attorneys)
System Funding (Total & Sources)	\$43 million, fully state funded
Annual Caseload Case Areas Covered	FY08 totaled 103, 518, which is nearly a 10% increase from the 94,325 handled the previous year (defined by number of defendants) all crimes for which the penalty is imprisonment or death
Mechanism for Quality Control (Accountability / Transparency)	A working group of approximately 30 members met and developed the Standards of Practice throughout the year. Members of the working group included representatives from the private bar, public defender offices, offices of the Commonwealth Attorneys, the office of the Attorney General, the Executive Secretary of the Supreme Court, the bench and the Virginia State Bar. Still working on enforcement plans
Conflict Representation	advise court of conflict and the court appoints private attorney
System Strengths & Weaknesses	

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State of Wisconsin	
Jurisdiction Size (2007 population)	5,363,675
In House?	Yes, although they do contract out contract out some conflict cases
# of Staff	550, 325 of which are attorneys) employees deployed in 38 field offices; in addition, 1200 private bar attorneys alleviated with the SPD provide defense services in conflict and surplus cases
System Funding (Total & Sources)	State funding, with 1-2% of the budget coming from program revenues (court assessments, for example)
Annual Caseload Case Areas Covered	Same as the county, including death penalty. 142,400 indigent clients in FY 07, including probation violations; SPD staff represent about 53%, 40% assigned to certified private bar attorneys on a rotational basis at an hourly rate of pay (\$40/hour, certified for a period of time for a type of case), and 7% (misdemeanors only) are assigned to certificated private bar attorneys via fixed fee contracts
Mechanism for Quality Control (Accountability / Transparency)	annual performance reviews; self-evaluation with supervisor response; look at client relationships, case preparation, advocacy; three files are pulled, look at actions, documentation, etc.
Conflict Representation	Assigned Counsel Division (ACD), located in the central admin office in Madison, provides support services to certified private attorneys. The ACD certifies, provides training for, processes investigator and expert requests, and administers all SPD payments for private attorneys. The ACD shares responsibility with the trial and appellate divisions for monitoring private attorney performance.
System Strengths & Weaknesses	Strengths: With a statewide system, they have worked very hard to have good credibility, which starts locally, they have a reputation for being prepared (last car in the parking lot winters), keep a good dialogue with the courts, diversion courts have grown up more county by county, have been able to support it through workload recognition; spend more time on each case but reduced recidivism. Really having to work with the screening process, audit in the 1990s determined that many clients had incomes that were far too high to qualify as indigent. Supervision of private attorneys is complicated, and number of cases that go out to private is a disincentive to broader participation

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Washington, DC	
Jurisdiction Size (2010 population)	601,723
In House structure	The Public Defender Service for the District of Columbia is a “federally funded organization” created by Congressional statute (not private; not 501(c)3; not Fed employees---except considered as such for retirement and health benefits) governed by an 11-member Board of Trustees appointed by federal and appellate chief judges and the mayor. Budget is a Fed appropriation within the OMB. PDS sets attorney caseloads, and advises court on client eligibility and each case appointment via a court screening committee. PDS is authorized to provide representation for up to 60% of eligible clients, and generally handles the more serious, time consuming, resource-intensive criminal and juvenile delinquency cases.
# of Staff	213 staff; 110 attorneys Felonies - 43 attorneys Misdemeanors - 0 attorneys (but we do provide representation in some misdemeanor cases) Juveniles - 7 attorneys Appeals - 16 attorneys Parole - 10 attorneys Civil/Special Education - 5 attorneys Mental Health - 10 attorneys Reentry, prison assistance, committed children - 7 attorneys 35 investigators total; 12 social workers total, including two juvenile
System Funding (Total & Sources)	PDS budget: \$37 million; Court’s panel budget: \$55 million; all budgets consist of federally appropriated funds, the panel attorneys are compensated per case by the court up to a maximum per case type from designated Criminal Justice Act funds.
Annual Caseload Case Areas Covered	D.C. Superior Court Calendar Year 2011 pending cases - Adult felony cases: 7,234 ; adult misdemeanor cases: 20,463 Juvenile delinquency cases: 3,924 New mental health cases: 2,236 D.C. misdemeanors (misdemeanors prosecuted by D.C. Attorney General): 2,159 Traffic cases: 8,923
Mechanism for Quality Control (Accountability / Transparency)	Court has screening process for admitting new attorneys to panel. PDS trains and supervises its staff.
Conflict Representation	Approximately 300 adult panel attorneys; bulk of system’s adult cases go to panel attorneys as PDS does few misdemeanor cases, almost no traffic cases Separate juvenile panel Law school programs and pro bono firms take some adult and juvenile cases
System Strengths & Weaknesses	Court oversees, manages, panel program budget