



Snohomish County
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MEMORANDUM

TO: Snohomish County Council members

FROM: Adam Cornell, Snohomish County Prosecuting Attorney

DATE: September 29, 2022

RE: Response to Requested Supplemental Questions Concerning 2023 Budget

By this Memorandum, I write in response to your recent request for answers to supplemental questions concerning the Prosecuting Attorney's Office's 2023 budget request. My response is below.

Strategic Goals

Question: Provide your 2022 strategic goals; how are they different from 2022? In what way, if at all, are your strategic changes demonstrated in your budget request?

- Office-wide – (1) seek additional funding for core functions and special programs to stretch our financial resources; (2) offer more training and mentoring opportunities to less-experienced employees; and (3) address increased turnover of attorneys, due in large part to private sector pay disparity and the Great Resignation.
- Criminal – (1) continue to address the reduction of the felony case backlog in charging as a consequence of the COVID-19 pandemic to a manageable level; (2) more quickly and efficiently review and process complex felony cases such as homicides and other violent crimes; (3) more quickly and efficiently review and process cases involving felony persistent offenders with a focus on those committing firearms-related offenses; and (4) develop a comprehensive training program for DPAs and law enforcement staffed by a full-time DPA.
- Civil – (1) maintain effective technological infrastructure; (2) continue to develop internal specialties and subject matter expertise to better serve the County; and (3) continue partnering with Risk Management to identify, control, and reduce county liabilities.
- Family Support – (1) provide efficient and effective representation of the State of Washington on the establishment and recovery of child support obligations; (2) meet federal timelines in parentage

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establishment; and (3) monitor and make improvements to support order modification procedures in anticipation of federal timelines for these cases in the future.

The PA Office's strategic goals have largely remained the same, with the notable exception of the Criminal Division. As noted above, and expressed more fully below, the rise in homicides and other violent crimes and the impact of firearms-related offenses overlaid by the fentanyl crisis coupled with attrition, the loss of more experienced DPAs, and rapid changes in law and decisional authority compels a strategic change in goals and drives our 2023 budget request.

Impact of the National, State and Local Landscape On Work

Question: What are the federal, state and local issues facing your work? What risks or opportunities does that create for you in 2023 and beyond? What is your plan to leverage the opportunity or mitigate the risk? What support do you need?

- Deputy Prosecuting Attorney (DPA) and staff attrition and consequent loss of experiential capital.
- Increase in homicides and other complex violent crime and impact of firearms-related offenses on public safety overlaid by the fentanyl crisis.
- Rapidly changing legal landscape for DPAs and local police agencies in light of recent state legislative enactments, consequential Supreme Court and Court of Appeals rulings, and new state and local court rules.
- Integration of Snohomish County Health District into county government.

The PA's 2023 budget request is a direct response to the above realities for DPAs and staff. Attrition and the loss of experience in the face of increasingly complex and burgeoning violent crime and the impact of firearms offenses would be a pervasive threat to public safety on its own. Yet, this threat, coupled with the fentanyl crisis and the recent flurry of changes to the law imposed by our legislature and the courts further exacerbates challenges to Criminal Division attorneys and staff.

Question: What, if any, new mandates do you have impacting your work? Are they funded or unfunded? What is the plan for accomplishing the work?

An unprecedented number of unfunded mandates handed down from our legislature and state and local courts in the face of limited resources has negatively impacted the ability to more efficiently fulfill our commitment to public safety to our community. Among them:

- *In Re Monschke* and the *Blake* decision have increased workload to line DPAs and staff. The *Monschke* decision requires the resentencing of many youthful offender defendants convicted of life in prison with the possibility of parole. *Blake* concerns the vacation and/or resentencing of those previously convicted of felony Possession of a Controlled Substance.
- Senate Bill 6164, colloquially known as the Prosecutor Resentencing bill, has forced our office to develop and implement protocols for considering resentencing requests. While the final decisions and hearings themselves have been handled by the elected Prosecutor, a review committee is staffed by line DPAs to carefully consider the requests.
- Revisions by our local Superior Court to court rules and procedures have substantially increased the time DPAs are required to be in court each week.
- Changes in legislative enactments impacting police practices and procedures have led to more frequent and complicated legal consultations with DPAs and search warrant reviews. Notably, recent changes to the Washington Administrative Code related to rules concerning officer-involved uses of deadly force

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have increased review and consultation among our DPAs assigned to the SMART team and the Assistant and Chief Criminal DPAs.

- The requirement of police body worn cameras—including the recent initiative by the Executive and Sheriff—has significantly increased the review and processing of all manner of criminal cases, particularly in those cases where multiple officers are present during an investigation and wearing body worn cameras.

Programs

Question: List programs, projects and services within your department funded through federal COVID/ARPA funds. What, if any, of those programs are you recommending ongoing funding for and what is the source of ongoing funding?

- ARPA funds have been allocated to hire Criminal Division DPAs and staff to reduce the case backlog created as a consequence of the COVID-19 pandemic. The office is requesting the ongoing funding of the project positions with available ARPA funds. These funds will sunset in 2024.
- ARPA funds have been allocated to remodel office space to accommodate the hiring of new staff.

Question: What new programs are you launching for 2023? What need or efficiency is that new program addressing? How is that program funded for sustainability? What metrics are in place to determine effectiveness?

- Create a comprehensive training program staffed by a full-time DPA. Specifically, the full-time training DPA is meant to enhance the response to attrition and the constant evolution of the law for both prosecutors and police. Internal training will focus on developing and maintaining trial advocacy skills and other practice responsibilities in addition to providing regular and comprehensive updates and instruction on emerging areas of law. External training for police will be focused on providing instruction to police on topics like criminal procedure, search and seizure law, report writing, and compliance with discovery obligations.
- Create a Complex Prosecutions Unit within the Criminal Division. The Complex Prosecutions Unit, staffed with two additional FTE DPAs requested in the Priority Package, will centralize the prosecution of the most complex cases in a small unit of highly experienced DPAs. This will leverage the specialized experience of these DPAs to focus on some of the most serious cases in the office and will allow other DPAs to better attend to their primary responsibilities in other important units (including the Special Assault Unit, the Domestic Violence Unit, and the Violent Crimes Unit).
- Add a new DPA position to address the impact of firearms-related offenses, particularly by persistent offenders. This DPA would provide more expeditious review and resolution of those relevant cases and ensure that courts are provided all necessary information in making determinations regarding bail, release, and sentencing.
- For additional detail, please see the Priority Packages submitted for 2023 budget request.

Internal Operations

Question: What is your department doing to streamline processes or deliver services in a new way? How do your budget allocation requests play into these innovations? Are there ways which a different budget approach, e.g. several departments sharing a resource, could achieve the same or better results in a more cost-effective way?

- The 2023 budget allocation request would streamline the review, processing, and prosecution of criminal matters, particularly complex homicides, violent crimes, and firearms offense perpetrated by

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persistent offenders. The addition of a training DPA would increase responsiveness to the community and local police agencies and ensure DPAs are fully conversant with current laws and procedures and trial practice in the face of an ever-changing legal landscape

Question: What, if any, hiring challenges are you experiencing? How is that affecting your level of service or internal operations? How are you mitigating those operational challenges and/or what is your plan for recruitment?

- Attrition and the attendant loss of experiential capital.
- Increases in homicides and other violent crimes and the impact of persistent offenders, particularly those committing firearms offenses.
- Rapid and significant recent changes in the law, court decisions, and court rules that impact both DPAs and are partners in local police agencies.

Question: Please provide a list of all vacant position titles, position codes, date vacated, and date first posted. This should be a separate page or spreadsheet attachment.

- Please see attached spreadsheet. Notably, only two DPA vacancies exist in the Criminal Division—one for an entry level DPA and the other for a lateral DPA.

Question: What effect has the increase of inflation and/or supply chain issues had on your department? What, if any, services, or projects have you had to adjust to accommodate for this? (i.e. moving to outside contracted services, delaying of project starts and/or purchasing, redistribution of workload, etc.)

- Inflation has had an adverse impact on our ability to recruit and retain employees in light of stagnant existing salaries and the attendant increase in the price of goods and services.

Successes

Question: Take this opportunity to share one significant success in your department over this past year. What made it a success?

- As you know, we are an office of lawyers, supported by very able staff, who handle thousands of cases and nearly as many requests for legal advice annually. And as such, it is difficult to point to a single piece of litigation or advice that stands apart from the excellent work done every day over the course of a given year. Broadly speaking, notwithstanding the significant external and internal challenges faced by our attorneys and staff day in and day out—many of them listed throughout this memorandum and serving as abundant justification for our budget request—the good and dedicated public servants we employ make significant and important contributions to the function and success of Snohomish County government while also making our community safer and more livable.
- From a programmatic perspective, however, our most significant success has been in bringing Law Enforcement Assisted Diversion (LEAD) to Snohomish County. In 2022, our office secured an additional \$3.3 million in state and federal funding to continue and expand our LEAD program. When fully operational, the expansion will more than double the number of program participants we can serve (275) through our contracted services providers. It has also allowed us to increase the number of police agencies with whom we partner, and now includes the following Snohomish County cities: Everett, Lynnwood, Mukilteo, Mill Creek, Mountlake Terrace, and Brier, with north county expansion due next. LEAD is a public safety program that uses human resource tools. The goal of LEAD is to reduce criminal

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recidivism and improve community health and safety by effectively coordinating with law enforcement to divert eligible and willing offenders away from the revolving door of jail and prosecution into intensive case management and wrap-around supportive services. LEAD co-founder Lisa Daugaard, a MacArthur Genius Award recipient, had this to say about the Snohomish County LEAD program: "Rarely have we seen leadership so clear about the potential benefits of this approach, in reducing the burden on police and courts, reducing law violations, and improving individual and community health and safety."

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Prosecuting Attorney - Current Vacancies (as of 9/29/2022)

Position Title	Position #	Date Vacant	Date 1st Posted	Fund	Notes
Admin Assistant	PRA4550R	9/1/2022		002 GF - Admin	Appointed Position - to be filled in 2023
Civil Dep Pros Atty I	PRA4441R	5/20/2022	8/26/2022	506 - Civil Tort	Active Posting
Legal Assistant	PRA4544R	4/15/2020		002 GF - Crim	Not currently funded - request for 2023 funding
Lead Legal Secretary	PRA4536R	6/3/2022		002 GF - Crim	Not currently posted - restructuring position
Legal Secretary	PRA4558R	7/15/2020		002 GF - Crim	Not currently posted - kept vac to offset costs of new PGL position in 2021
Legal Secretary	PRA4602R	4/22/2022	8/15/2022	002 GF - Crim	Posting closed 8/30/22 - actively recruiting
Legal Secretary	PRA3120P	1/1/2022		ARPA - Crim	Not currently posted - ARPA
Law Office Assistant	PRA3121P	1/1/2022		ARPA - Crim	Not currently posted - ARPA
Victim Witness Adv	PRA6772R	9/12/2022	9/8/2022	002 GF - Crim	Posting closed 9/26/22 - actively recruiting
Victim Witness Adv	PRA6770R	8/25/2022	9/8/2022	002 GF - Crim	Posting closed 9/26/22 - actively recruiting
Crim Dep Pros Atty II	PRA3445R	1/10/2022	8/9/2022	002 GF - Crim	Second Posting for ongoing vacancies - Original Posting 4/13/21
Crim Dep Pros Atty III	PRA4615R	7/1/2022	2/4/2022	002 GF - Crim	Senior Appellate Position - Active Posting
Legal Assistant	PRA4533R	2/17/2020		130 - Fam Supp	Not currently posted
Legal Assistant	PRA4709R	9/29/2022	9/19/2022	130 - Fam Supp	Active Posting
SEMS & WAPA Admin	PRA4670R	12/31/2020		130 - Fam Supp	Not currently posted
Judicial Technican	PRA4676R	1/31/2021		130 - Fam Supp	Not currently posted
Law Office Assistant	PRA4547R	1/5/2017		130 - Fam Supp	Not currently posted
Law Office Assistant	PRA4648R	8/11/2020		130 - Fam Supp	Not currently posted
Law Office Assistant	PRA4545R	9/6/2022	9/20/2022	130 - Fam Supp	Active Posting
Law Office Assistant	PRA4549R	1/3/2017		130 - Fam Supp	Not currently posted