

## 2024 Supplemental Department Questions

*Please answer the following questions in a word document and return to Council. The answers to these questions will be provided to council as supplemental information. While not part of the physical budget presentation to Council, departments should be prepared to answer questions Council may have on these supplemental questions. If you feel that you have provided an answer in a previous question, please don't repeat your answer, simply refer to the earlier question/answer.*

### Strategic Goals

1. Provide your 2024 strategic goals;

**a. OPD**

- i. CONFLICT PANEL - Complete the transition of the criminal conflict panel to competitive hourly rates. The first-in-memory increase in rates has allowed for more competitive recruitment with no gap in the assignment of counsel. The transition to hourly billing has allowed us to monitor and supervise contractors more closely.**
- ii. AGGRAVATED MURDER – With the increase in aggravated murder charges comes increased costs for representation. This package will help cover the costs of the representation in aggravated murder cases.**
- iii. GUARDIANSHIP EXPERTS will allow OPD to provide expert witness services to lawyers representing minors and vulnerable adults in guardianship cases. These requests often include paternity tests, service of process, parenting evaluation, mental health evaluations.**
- iv. PROTECTION ORDER REPRESENTATION FOR MINORS – In 2022, OPD began appointing counsel for petitioners seeking civil protection orders when the respondent hired a lawyer. This program, offered in conjunction with Superior Court, will allow the Court to appoint counsel to minor respondents for who a protection order is being sought. These vulnerable members of the community attend court unrepresented and often without a reliable, legal, adult guardian.**

**b. Snohomish County Public Defender Association (SCPDA)**

- i. CONTEMPT OF COURT/FAMILY SUPPORT - SCPDA and the County have contracted for a Contempt of Court attorney for approximately 10 years. Since then, the caseloads have grown, SCPDA has taken on additional work without compensation, and SCPDA has opted to not renew this portion of the contract without a staffing change. This package would add 1 lawyer position and 1 paralegal to the contract with PDA. The Prosecutor's Office staffs its**

- family support unit with 8 positions; this package would increase SCPDA's staffing to 3 positions
    - ii. **INVOLUNTARY TREATMENT ACT (ITA) – Caseloads have increased, and an additional 1 lawyer and .25 lawyer supervisor is needed to remain within caseload compliance.**
  - c. **SOFTWARE UPDATES**
    - i. **Caseload management system at OPD will allow for more efficient administration and assignment of cases to our contractors as well as allow for greater reporting and accounting.**
    - ii. **EVIDENCE.COM - Body-cam video storage and viewing for OPD contractors.**
- 2. **How are they different from 2023?**
  - a. **Conflict Panel – In 2023, in response to the 2022 OPD Audit, we began transitioning from flat-fee to hourly contracts.**
  - b. **Implement no contact order representation program (if funded)**
  - c. **Work with Superior Court, legal contractors, and state allies to refine our Minor and Vulnerable Adult Guardianship representation**
  - d. **Work with the courts, SCPDA, and local civil legal aid to implement a Legal financial obligation (LFO) waiver form and process with pro bono representation.**
- 3. **In what way, if at all, are your strategic changes demonstrated in your budget request?**
  - a. **OPD's goal is to provide timely qualified counsel to those with a right to counsel. Increasing the rate to the Conflict Panel, Agg Murder, ITA, and Contempt of Court will assist us to stay within our mission for 2024.**

**National, state and local landscape:**

- 1. **What are the federal, state and local issues facing your work?**
  - a. **National caseload study – A group associated with the American Bar Association have promulgated revised public defense caseload standards that will likely be modified and mapped onto Washington law. This could require the hiring of additional felony attorneys and support staff. We are likely to be in compliance with other practice areas**
  - b. **Increased costs for expert services – Expert services costs, particularly in Fund 124. Costs of experts for social workers, mitigation experts, medical, substance use, and mental health experts have increased along with increased reliance on experts to meet caselaw requirements.**
  - c. **Biennial budget – Biennial budget will be a challenge. We cannot predict arrest and prosecution rates, and thereby caseload compliant staffing needs, two years in advance.**
  - d. **Lack of state funding for public defense, including dependency, staff support, and contempt of court, SCPDA law office support staff**
- 2. **What risks or opportunities does that create for you in 2024 and beyond?**

- a. **The workload drivers are still unknown, so our ability to predict case filings will be difficult in a two-year budget. Caseloads standards may change increasing staffing needs, while ARPA funding ends and we lose FTEs**
- 3. **What is your plan to leverage the opportunity or mitigate the risk? What support do you need?**
  - a. **In the long term, OPD needs additional staff support. Since March of 2022, OPD has taken on additional work that is straining our current workload capacity. We have:**
    - i. **redesigned our pretrial services program to assist defense attorneys in reducing the harm of cash bail. This involves our Legal Coordinators contacting every person who was booked into the Snohomish County Jail within the last day to gather information, connect them with lawyers and social workers who can address their mental health, medical, and housing needs**
    - ii. **taken on new programs to assign lawyers for Minor Guardianship cases after a change in the law in 2021**
    - iii. **taken on new programs to assign lawyers for Vulnerable Adult Guardianship cases after a change in the law in 2022**
    - iv. **taken on a new program to assign lawyers in civil no contact order cases after a change in the law in 2022.**
    - v. **taken on additional civil expert service requests.**
    - vi. **Three times as many conflict panel contracts as we had in 2019, requiring continued work with county departments to generate and process new contracts.**
    - vii. **Processed more invoices for legal work in 2023 as a result of change to hourly compensation for the conflict panel. This has generated continual review and billing.**
  - b. **Lack of staffing for SCPDA executive and lawyers**
    - i. **SCPDA has over 90 employees but do not have Executive staff support, human resources, and very little IT or technology staff. This lack of support makes data gathering challenging; OPD is reliant on the SCPDA Director to run data reports, when needed.**
  - c. **Leadership at county and state level to make state funding of public defense a priority**
    - i. **Making public defense funding a legislative priority is important as the criminal legal system grows and costs continue to fall on the County.**
- 4. **What, if any, new mandates do you have impacting your work?**
  - a. **National caseload study – see above. Current public defense caseload standards are 50 years old and don't consider modern criminal investigation or litigation. As a result, public defense has a challenging time retaining qualified lawyers. The new study demands updated standards in order to**

create a culture where each lawyer has sufficient time and resources to zealously advocate for each client.

- b. **Washington State Association of Counties (WSAC) has sued the State of Washington for failure to pay for county and local public defense funding. This is much like McCleary, but in a public defense setting. This lawsuit will take years to resolve, but until it does, its presence will continue to highlight the need for public defense funding and reform.**
- 5. Are they funded or unfunded?
  - a. **No plan or information yet. State and federal funding is unlikely, but a State study is likely to be completed in 2024.**
- 6. What is the plan for accomplishing the work?
  - a. **Multityear. Unknown yet**

## **Programs**

- 1. 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?
  - a. **Felony lawyers, admin staff, investigators**
  - b. **No ongoing funding. These positions will be ended and employees terminated or rotated into positions with on-going funding, if available**
- 2. For programs funded by COVID/ARPA funds, detail the plan to close out and/or transition those programs to an ongoing funding source in 2025 and beyond.
  - a. **Historically these types of positions are only funded through the general fund. There is no alternate funding source. These positions will be terminated.**
  - b. **The plan is that the County continue to comply with the WSBA and court indigent defense standards. Unclear at this state how it will be accomplished.**
- 3. What new programs are you launching for 2024?
  - a. **NONE. We are slimming programs to address increased workload of attorney contracts and invoices.**
- 4. What need or efficiency is that new program addressing? How is that program funded for sustainability? What metrics are in place to determine effectiveness?  
**N/A**
- 5. If different than #3, what are your areas of significant investment? What are you not doing because of that investment?
  - a. **OPD staff is investing greater-than-average time to contracting with new lawyers and invoicing attorney and expert billings. Much of this work is not classically public defense and is more properly housed in court administration – OPD has taken on this increased work while *losing* an FTE.**

## **Internal Operations**

- 1. What is your department doing to streamline processes or deliver services in a new way?
  - a. **Implement case management system**

- b. Implement body-cam discovery viewing**
  - c. Continue to cross training staff to do additional work**
- 2. 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?
  - a. Yes. OPD has taken on tasks of appointing counsel from the State OPD, Superior Court, District Court and have also lost staff since COVID. We would achieve better results with additional staff to handle the workload.**
  - b. SCPDA has struggled to provide data during and after the audit. Executives and supervisors have little to no support staff and limited ability to be responsive to requests for data. If SCPDA had additional IT, HR, and support staff, it could be more responsive to employee and County needs.**
- 3. 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?
  - a. OPD has not had an open position for years**
  - b. Increased hourly rates for felony conflict attorneys have allowed us to recruit additional qualified lawyers. While this increase has prevented an attorney shortage, like other counties have faced, it has resulted in a dramatic increase in contracting, invoicing, and financial management for OPD's staff.**
  - c. Legislative or caseload changes, or changes in prosecution rates impact OPD workloads and staffing needs. These factors are out of OPD's control. Managing these changes in a biennial budget cycle will involve informing Council and the Executives Office of public defense trends and changes in the law and working to responds to needs.**
- 4. To help inform Council on experiences around hiring and retention, please provide a list of all vacant position titles, position codes, FTE amount (1.0, 0.5, etc.), date vacated, and date first posted. Template spreadsheet attached for convenience and conformity; if already tracking information in another format, that is acceptable as well. Please list each vacancy separately.  
**N/A – no vacancies**
- 5. 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.)
  - a. Expert Services Costs have increased significantly.**
- 6. When was the last time your department implemented a fee increase? Do you have any plans to increase fees?
  - a. 2023 for conflict panel (not-SCPDA lawyers) and investigators**
- 7. Do you have any plans to do a rate/fee study? Are your current fees established based on a full cost recovery model?

- a. No plan to amend the municipal contracts currently in place. OPD continuously reviews cost recovery and caseloads/caseload standards and is continuing to implement recommendations from the 2022 audit.**

### **Successes**

1. Take this opportunity to share one significant success in your department over this past year. What made it a success?
  - a. Conflict Felony Panel rate increase and ability monitor and supervise**