



Snohomish County Council

Committee: LJHS
ECAF: 2021-1039
Motion: 21-454

Analyst: Heidi Beazizo
Date: December 9, 2021

Consideration:

Motion 21-454 would approve the 2022 contract with the Snohomish County Public Defender Association for legal services for indigent defendants and authorize the Executive to execute the contract and any amendments to the contract.

Background

The [Sixth Amendment](#) of the United States Constitution states that the accused has the right to the assistance of counsel for their defense in criminal prosecutions. As not every defendant can afford an attorney, in 1989 Washington State implemented [Chapter 409 \(RCW 10.101\)](#) stating that “legal representation should be provided for indigent persons and persons who are indigent and able to contribute.” This chapter also requires counties and cities to establish standards for the delivery of defense services to indigent defendants.

Today, the largest contract is with the Snohomish County Public Defender Association (SCPDA), who provides the majority of legal services to indigent defendants in the County.

Current Proposal

Scope: Motion 21-454 approves an agreement with SCPDA to Provide assistance of counsel for indigent persons charged with criminal offenses in Snohomish County superior, district, and juvenile Court.

Primary services provided by the SCPDA under this contract are:

1. Legal assistance to all clients during criminal investigations who are un-represented and request legal assistance.
2. Counsel and represent all clients in criminal and juvenile proceedings who are referred by the County
3. Counsel clients on their rights to appellate review and file related notices at the request of the client.
4. Counsel and represent people who have petitions filed against them in the Superior Court for involuntary civil commitment under RCW 71.05.

Additionally, the 2022 budget included the following changes from 2021:

1. **Main Agreement - Section 11:** “In addition to the audit requirements defined above, the Association will participate in a performance audit paid for by the

County. This requirement is part of the 2022 Budget approved by Ordinance 21-093¹.

2. Schedule A:

- a. **F.24:** “Representation of persons whose representation, under this Section F, was delayed by the COVID-19 Pandemic. For purposes of this subsection (24), this will include all matters subject to representation under this Section F that would have otherwise occurred between March, 2020, and December 2022, but for the Covid-19 Pandemic.”
- b. **H.3:** “To address the backlog of cases created by the COVID-19 Pandemic, the Association will employ a minimum of five (5) FTE Level 2 Felony Lawyers, one and one half (1.5) FTE Level 2 investigators, and one and one half (1.5) FTE Level 3 Legal Assistants, in order to provide representation under subsection F.24.”

3. Schedule C:

- a. **#3:** Isolating .75 of the Supervising Lawyer’s as an ITA specific supervisor. (No FTE increase)
- b. **#23:** COVID-19 Backlog – specifying \$988,595 in payment for COVID-19 Backlog related services
- c. **#24:** COLA – “In the event County employees receive a COLA during 2022, the parties will amend the contract to increase the salaries of all Association employees providing services under this Agreement in an amount equal to the COLA received by County employees.” (This language requested by the DPA.)

Duration: January 1, 2022 – December 31, 2022

Fiscal Implications: \$13,377,118

(Per the 2022 Budget Condition, \$926,492 is conditioned on the completion of the Performance Audit and approval by motion and \$329,199.35 may only be spent on rent, cost of living increases and salary parity for social workers and investigators)

The funding for this contract was included in the 2022 Council Adopted Budget:

DAC/Description	2021	2022	Variance
002.5321274106 - Misc.	\$ 105,462	\$ 104,325	\$ (1,137)
002.5321274107 - Felony	\$ 7,836,664	\$ 9,378,189	\$ 1,541,525
002.5321274108 - Misdemeanor	\$ 1,373,495	\$ 1,516,527	\$ 143,032
002.5321274111 - Juvenile	\$ 306,374	\$ 266,173	\$ (40,201)
002.5321274117 - Becca	\$ 114,125	\$ 123,510	\$ 9,385
124.02321274107 - Felony	\$ 1,493,529	\$ 1,793,144	\$ 299,615
124.02321274106 - Misc	\$ 126,797	\$ 135,728	\$ 8,931
124.02321274108 - Juv Show Cause Attorney	\$ 50,568	\$ 59,522	\$ 8,954
Total	\$ 11,407,013	\$ 13,377,118	\$ 1,970,105

Fund 002: \$1,652,604 increase; Fund 124: \$317,501 increase. 2% COLA built-in as well as costs related to COVID-19 Backlog.

¹ [Agenda \(legistar.com\)](http://legistar.com)

Handling: Urgent

Approved-as-to-form: Yes

Risk Management: Yes

Executive Recommendation: Approve

Attachments:

1. 2022 Executive Recommended OPD One-Pager
2. 2022 OPD Budget Condition

Amendments: N/A

Request: Move to GLS on December 15, 2021 for Council to consider taking action.