



King County

# KING COUNTY

1200 King County Courthouse  
516 Third Avenue  
Seattle, WA 98104

## Signature Report

June 1, 2009

### Motion 13004

**Proposed No.** 2009-0177.2

**Sponsors** Gossett

1                   A MOTION amending the public defense payment model,  
2                   which established a framework for budgeting indigent legal  
3                   defense services in King County.  
4

5                   WHEREAS, the King County council included a proviso within the office of the  
6                   public defender's section of Ordinance 16312, the 2009 Budget Ordinance, and

7                   WHEREAS, the proviso required a report to be developed by the department of  
8                   community and human services, in conjunction with the office of management and  
9                   budget to include current data and input from the contract defense contractors and the  
10                  King County Bar Association, and

11                  WHEREAS, these components shall be consistent with the model adopted by the  
12                  council in Motion 12160, and

13                  WHEREAS, the Public Defense Payment Model is the analytical framework for  
14                  calculating the costs to provide indigent defense services in order to guide preparation of  
15                  proposed annual appropriations for public defense and to structure contracts for indigent  
16                  defense services, and

17           WHEREAS, the Public Defense Payment Model is not intended to and does not in  
18 any way alter the relationship between King County and the nonprofit law firms with  
19 which King County contracts, namely that the law firms are independent contractors to  
20 King County, and

21           WHEREAS, the model must be updated after three years (2006 was Year 1; 2007  
22 was Year 2; and 2008 was Year 3), the model policies have been updated for the  
23 Ordinance 16312 proviso report, revised for the 2009 budget, and revised in Attachment  
24 A to this motion, and

25           WHEREAS, the King County council finds that the department of community and  
26 human services's, in conjunction with the office of management and budget, report  
27 regarding proposed recommendations to the contract payment methodology and budget  
28 modification is approved;

29           NOW, THEREFORE, BE IT MOVED by the Council of King County:

30           The council hereby adopts the amendment to the Public Defense Payment Model  
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Motion 13004

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32 policies set out in Attachment A to this motion and effective July 1, 2009, for contract  
33 development and payment.

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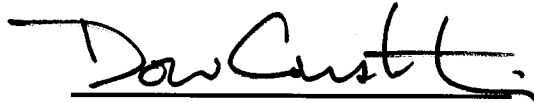
Motion 13004 was introduced on 3/9/2009 and passed by the Metropolitan King County Council on 6/1/2009, by the following vote:

Yes: 9 - Mr. Constantine, Mr. Ferguson, Ms. Hague, Ms. Lambert, Mr. von Reichbauer, Mr. Gossett, Mr. Phillips, Ms. Patterson and Mr. Dunn

No: 0

Excused: 0

KING COUNTY COUNCIL  
KING COUNTY, WASHINGTON



Dow Constantine, Chair

ATTEST:



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Anne Noris, Clerk of the Council

**Attachments**      A. Public Defense Payment Model for General Fund Expenses for Indigent Public Defense Services in King County, dated May 19, 2009

## Public Defense Payment Model for General Fund Expenses for Indigent Public Defense Services in King County

This model shall be used as the framework to develop the Executive's proposed annual budget for indigent legal defense services. An indigent defendant is a person determined indigent by the County, the County's Office of the Public Defender or Court as being eligible for a court-appointed attorney, pursuant to RCW 10.101. The purpose of the model is to create uniform rates to be paid to contract agencies providing indigent legal services for direct expenses including salaries and benefits and indirect expenses including overhead and administrative costs.

### **STEP 1: Project the Annual Caseload Credit Volume**

The model begins with an annual estimate of the number of case credits in six case areas. Each type of case shall be assigned a number of case credits. A case credit represents the amount of attorney work required. The total number of credits that each attorney is expected to perform annually, known as the "caseload standard," is listed below.

<u>Case Area</u>	<u>Caseload Standard</u>
• Complex felony (e.g. death penalty, homicide cases)	150 credits
• Regular felony	150 credits
• King County misdemeanor	450 credits
• Juvenile	330 credits
• Dependency	180 credits
• Contempt of court	225 credits

### **STEP 2: Calculate the Price Per Credit for Each Case Area**

The model budgets for legal services on the basis of a price per credit for each of the six case areas. The components listed below are calculated to arrive at the price per credit:

- A. Salaries
  - 1. Attorney Salaries
  - 2. Supervisor Salaries
  - 3. Non-legal Professional Support Staff Salaries
  - 4. Clerical Staff Salaries
- B. FICA (Social Security + Medicare Taxes)
- C. Benefits
- D. Direct Overhead Costs Related to Legal Practice
  - 1. Legal Staff
  - 2. Non-Legal Staff

#### **A. Salaries**

1. **Attorney Salary:** The model budgets public defender attorney salaries at parity with similarly situated attorneys (where positions budgeted in the model are in comparable classifications with comparable duties and responsibilities) in the Office of the Prosecuting Attorney. For the purposes of the model, salary means pay

exclusive of benefits. Alignment of Public defender attorney to Prosecuting Attorneys will be done annual based on January PAO attorney levels.

$$\frac{(\text{Weighted Average Attorney Salary})}{\text{Caseload Standard}} = \text{Attorney Salary Price Per Credit}$$

2. **Supervisor Salary:** The model funds the contract requirement of each defender agency to provide a ratio of 0.1 supervisors for each attorney. Supervisors will be placed at same levels as Senior Attorneys above.

$$\frac{(\text{Weighted Average Supervisor Salary}) \times 0.1}{\text{Caseload Standard}} = \text{Supervisor Salary Price Per Credit}$$

3. **Non-Legal Professional Support Staff Salaries:** The model funds the contract requirement of each defender agency to provide sufficient professional support staff (social worker, investigator and paralegal) for each attorney. The non-legal support staff salary price per credit is based on the average market rate for paralegals, investigators and social workers taking into account the percentage distribution of FTEs in the three non-legal staff categories in the 2008 system. The model payment standard is 0.5 professional support staff per attorney with an annual COLA increase.

$$\frac{(\text{Weighted Average Non-Legal Staff Salary}) \times 0.5}{\text{Caseload Standard}} = \text{Non-Legal Salary Price Per Credit}$$

4. **Clerical Staff Salaries:** The model funds the contract requirement of each defender agency to provide sufficient clerical staff for each attorney. The clerical staff salary price per credit is based on the average market rate for clerical. The model payment standard is 0.2 clerical staff per attorney with an annual COLA increase.

$$\frac{(\text{Clerical Staff Salary}) \times 0.2}{\text{Caseload Standard}} = \text{Clerical Salary Price Per Credit}$$

**B. FICA (Social Security + Medicare Taxes):** Employers are required to pay 6.2 percent in Social Security and 1.45 percent in Medicare payroll taxes for each employee, for a total of 7.65 percent.

$$(A1+A2+A3+A4) \times .0765 = \text{FICA Cost Per Credit}$$

**C. Benefits:** The model budgets for benefits based on the 2008 benefit amount per agency FTE inflated annually at the rate of inflation experienced by the county flex benefit plan. The model does not prescribe the type of benefits contract agencies provide to their employees.

1. **Calculate the Benefit Allocation per FTE.** The projected inflation rate will be adjusted in the following year to reflect the actual inflation rate.

$$(\text{2008 benefit amount per FTE}) \times (\text{2009 projected inflation rate}) = \text{2009 Benefit Allocation Per FTE}$$

2. **Calculate the Benefit Price per Credit.**

$$\frac{(\text{Benefit Allocation per FTE}) \times (1.80^A)}{\text{Caseload Standard}} = \text{Benefit Price Per Credit}$$

<sup>A</sup> 1.80 = 1 attorney; 0.1 supervisor; 0.5 non-legal staff; and 0.2 clerical staff.

**D. Direct Overhead Allocation Related to the Practice of Law**

**1. Calculate the Legal Staff Overhead Allocation and Price per Credit:** The model budgets this allocation on a rate-per-attorney basis most recent completed year as a baseline taking into account the following categories: liability insurance, licenses, continuing legal education, memberships and dues, library costs, computer desktop replacement, and parking and mileage for investigators and attorneys. A COLA increase is applied annually.

$$\text{A. } \frac{\text{Legal Staff Allocation}}{\text{Number of Attorneys}} = \text{Legal Admin Rate per Attorney}$$

$$\text{B. } \frac{\text{Legal Admin Rate per Attorney}}{\text{Caseload Standard}} = \text{Legal Admin Rate Price per Credit}$$

**2. Non-Legal Staff Overhead Allocation and Price per Credit:** The model budgets this allocation on a rate-per-FTE basis for investigators, social workers and paralegals using most recent completed year system costs as a baseline taking into account the following categories: liability insurance, licenses, training and education, memberships and dues, library and desktop replacement. A COLA increase is applied annually.

$$\text{A. } \frac{\text{Non-Legal Staff Admin Allocation}}{\text{Number of Non-Legal FTEs}} = \text{Non-Legal Staff Admin Rate per FTE}$$

$$\text{B. } \frac{\text{Non-Legal Staff Admin Rate per FTE}}{\text{Caseload Standard}} = \text{Non-Legal Admin Rate Price per Credit}$$

**STEP 3. Calculate the Total Price Per Credit**

A separate price per credit is calculated for each case area taking into account differing attorney levels assigned to each case area.

$$\text{Salaries (A1+A2+A3+A4) + FICA (B) + Benefits (C) + Legal and Non-Legal Staff Administrative (D1B + D2B) = Total Price Per Credit}$$

**STEP 4. Indirect Administrative and Overhead Allocations**

For indirect administrative/overhead costs including office operations, capital equipment purchases and leases and other agency-related costs and for agency administration, the model uses a percentage rate which is to be derived from the 2008 rate of administrative/ overhead costs to total direct expenditures (caseload and calendar related salaries, benefits, FICA, and legal-related administrative expenses). Adjustments may be made to the rate to accommodate for business process changes which may occur from time to time. Each contract agency will be allocated a percentage share of the total allocation based upon the agency's share of the total system direct costs.

$$(\text{Total direct expenditures}) \times \% \text{ Rate} = \text{Total Indirect Admin/Overhead Allocation}$$

**STEP 5. Rent Allocation:**

**A. Calculate the number of FTEs required to manage the three year average caseload volume as follows:**

1. Attorneys: calculated directly from the caseload standards and calendar tables
2. Supervisors = (# of attorneys) x 0.1
3. Non-legal professional and clerical support = (# of attorneys) x 0.7
4. Administrative staff

**B. Calculate the estimated square footage per contract agency as follows:**

1. Assign each personnel category above in A1-4 an appropriate square footage allocation not to exceed the Executive's 2004 proposed county space standards.
2. Multiply the FTE in each category by the square foot allotment;
3. Apply an allocation for special spaces such as storage, lunch rooms, and conference rooms; and
4. Calculate the circulation allowance for commons areas, restrooms and hallways not to exceed current county policy of 0.25 percent as follows:  $(B2 + B3) \times 0.25$ .

$$(B2 + B3 + B4) = \text{Total Square Footage}$$

**C. Calculate the total rent allocation:**

1. The cost per square foot shall be based on a rolling three-year market average cost per square foot (including operating costs) for Class B office space in two locations (the model may take into account market fluctuations or escalator provisions in existing leases):
  - 1) Downtown Seattle – Central Business District; and
  - 2) Kent – within reasonable proximity to the Regional Justice Center.

$$(\text{Average Cost Per Square Foot}) \times (\text{Total Square Footage}) = \text{Total Rent Allocation}$$

2. Each contract agency will be allocated a share of the rent amount based upon the agency's share of the total system FTEs in each of the two locations.

**STEP 6: Calendar Attorney and Staff Allocation**

- A. Compile the list of court calendars to be assigned to each attorney.
- B. Calculate the costs for salaries, FICA and benefits for attorneys, supervisors and non-legal staff assigned to calendar duty as follows:
  1. Number of Attorney FTEs x Attorney Salary per FTE = Total Attorney Cost
  2. Number of Supervisor attorneys x Supervisor Salary per FTE = Total Supervisor Cost
  3. Number of Staff FTEs x Non-Legal Support Staff Salary per FTE = Total Non-Legal Staff Cost
  4.  $(\text{Total Attorney Cost} + \text{Total Non-Legal Staff Cost}) \times .0765 = \text{FICA Cost}$
  5.  $(\text{Total Attorney and Non-Legal Staff FTEs}) \times (\text{Per FTE Benefit Allocation}) = \text{Benefit Cost}$
  6. Compute administrative and overhead costs using the rate in Step 4.
- B. Calculate the total cost for calendar attorneys and staff as follows:

$$(A1) + (A2) + (A3) + (A4) + (A5) + (A6) = \text{Total Calendar Allocation}$$

Each contract agency will be provided with an allocation directly related to the specific calendars they have been assigned.