

CITY COUNCIL STUDY SESSION

Proposed Ordinance Adopting Public Defense Standards

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DIRECTION NEEDED FROM COUNCIL

DIRECTION

Following discussion, staff is seeking Council direction to prepare an ordinance adopting public defense standards for final action at a future meeting.

RECOMMENDATION

Direct staff to prepare an ordinance adopting public defense standards for final action at a future meeting.

BACKGROUND & ANALYSIS

In accordance with the Sixth Amendment of the United States Constitution, and Article I, Section 22 of the Washington Constitution, persons charged with crimes who qualify to receive public defense services are entitled to the effective assistance of counsel at the public expense. The City provides public defense services to those defendants who are deemed indigent under RCW 10.010.010(3), meaning the defendant is unable at any stage of court proceedings because of circumstances enumerated in RCW 10.010.010(3), to pay for an attorney. A defendant may also be deemed indigent and able to contribute, meaning the defendant can pay some, but not all the anticipated costs for counsel. The City provides public defender services to indigent defendants accused of misdemeanor or gross misdemeanor offenses that occurred within the City by contracting with private attorneys and/or firms that provide such services.

What the Ordinance Would Do

Under RCW 10.101.030, the legislative authority in cities is to adopt enumerated standards for the delivery of public defense services and recommends that standards endorsed by the Washington State Bar Association ("WSBA") to serve as guidelines in adopting standards. The standards included in the proposed ordinance will provide direction on the program components and support services needed to ensure that contracted public defenders provide effective assistance of counsel to qualified accused persons. Adoption of the proposed Public Defense Standards ordinance would codify existing practices, add new requirements for reporting and monitoring, and reaffirm the expectations and responsibilities of public defense attorneys that provide public defender services under contract for the City. The standards also define the City's role and responsibilities in awarding public defense contracts, compensating services performed, and monitoring and evaluating attorney activities.

Additionally, if the City adopts Public Defense Standards, it will become eligible to apply for state public defense improvement funds which could be used to support Bellevue's program and the provision of public defense services. Examples of permitted uses of improvement funds include providing additional oversight of public defense services, addition of social work services, and additional investigator services.

If adopted, the proposed ordinance will amend Chapter 4.28 of the Bellevue City Code to add a new section 4.28.125, specific to public defense service contracts. The draft ordinance is provided as Attachment A. The proposed draft Public Defense Standards ordinance incorporates guidance from the Standards for Indigent Defense Services developed by the WSBA, and rules adopted by the Washington State Supreme Court relating to public defense services. The proposed ordinance also references relevant court cases analyzing the requirement to provide effective assistance of counsel under the federal and state constitutions.

Public Defense Figures

In 2019, the City's contracted public defenders supported 1,961 cases. Changes in court operations due to the COVID-19 pandemic led to a decline in the number of cases assigned to public defenders with 934 cases in 2020 and 847 cases in 2021. Between January and June 2022, 622 cases have been assigned to the City's contracted public defenders. Staff anticipates that the number of cases filed by City's prosecuting attorneys to increase consistent with pre-pandemic activity, and as a result the number of defendants seeking public counsel will return to pre-COVID levels in the near future.

Next Steps

With Council direction, staff will return with an ordinance for adopting standards for the provision of public defense services for Council action at a future meeting.

POLICY & FISCAL IMPACTS

Policy Impact

The proposed ordinance responds to RCW 10.101.30 which requires Bellevue to adopt standards for the delivery of public defense services.

Fiscal Impact

There would be no immediate fiscal impact associated with implementing these changes. If adopted, the Standards address the process for awarding public defense contracts and compensation for services. These provisions may impact future procurements and contractor negotiations.

As a result of adopting Public Defense Standards the City will become eligible to apply for state funds which could offset future program enhancements.

OPTIONS

1. Direct staff to prepare an ordinance adopting public defense standards for final action at a future meeting.
2. Provide alternative direction to staff.

ATTACHMENTS

A. Public Defense Standards Ordinance

AVAILABLE IN COUNCIL LIBRARY

N/A