

**Budget Report of the
King County
Public Defense Advisory Board**

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King County Public Defense Advisory Board

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Introduction

This report is prepared in accordance with KCC 2.60.031(I), which requires the Public Defense Advisory Board (“the Board”) prepare a report regarding the Executive’s proposed budget for public defense, and King County Charter 350.20.65, which requires the Board to advise the King County Council on matters of equity and social justice related to public defense.

An adequately funded public defense system is a core issue of equity and social justice. The people who depend on the Department of Public Defense (DPD) for representation are indigent by definition and are disproportionately people of color. Whether King County adequately funds the lawyers and professional staff needed reflects the sincerity of the County’s commitment to equity and social justice—its True North Values.

As detailed in this report, the current proposed budget is insufficient for DPD to provide minimally sufficient representation. The Board urges the Council to provide the following additional FTE authority for DPD in addition to the Executive’s proposed budget:

- 17 professional staff to support the 17 additional attorneys funded in the 2025 omnibus budget,
- 19 attorneys and 19 professional staff to support timely implementation of Phase II of the Washington State Bar Association’s (WSBA) revised caseload standards, and
- 15 3Ls (new attorneys) to start in October 2026,

for a total of 34 attorney and 36 professional staff FTEs, as well as:

- Reject the Executive’s proposed amendment to KCC 2.60.026.

The Board is confident that the Council will make these appropriate adjustments to continue its decade-long commitment to supporting equity and social justice, to maintain DPD’s charter-mandated independence, and to avoid loss of experienced DPD personnel, by adequately funding public defense. At the end of the day, this is about making sure the communities DPD serves receive constitutionally sufficient representation.

The National Crisis in Public Defense

Since the Board last issued a budget report in 2022, the national crisis in public defense reached a breaking point. In 2023, the American Bar Association published the National Public Defense Workload Study (NPDWS),¹ the largest comprehensive and empirical study

¹ Nicholas M. Pace, et al., National Public Defense Workload Study (2023), https://www.rand.org/pubs/research_reports/RRA2559-1.html

of its kind since the 1973 National Advisory Commission on Criminal Justice Standards and Goals (NAC) standards. The NPDWS documented the pervasive nature of excessive caseloads in public defense. Additionally, the WSBA Standards for Indigent Defense Services are informed by the NPDWS, and our state legislature has encouraged jurisdictions to use those standards as guidance when developing local standards.²

Over the last few years, we have repeatedly witnessed the chaos from overburdened public defense systems that lack the foresight and support that the King County Council has provided DPD. The consequences of underfunding public defense are playing out across the country. Public defenders in New York³ and Massachusetts⁴ have engaged in work stoppages and threatened strikes over inadequate compensation. Public defense offices in Oregon,⁵ Idaho,⁶ Maine,⁷ and other jurisdictions have been forced to refuse case assignments over workload capacity constraints as public defenders struggle to meet their ethical obligations. As a result, accused people are languishing in jail and serious charges are being dismissed due to the lack of available representation. For example, in Massachusetts, over 500 cases have been dismissed in 2025 as a result of underfunding public defense.⁸ To address this crisis, "[t]he Legislature and Gov. Maura Healey this summer agreed to a law requiring the CPCS Public Defender Division to hire 320 attorneys over two fiscal years."⁹

These consequences can be seen close to home. In Yakima County, the public defense shortage has resulted in the delay of appointing counsel—at times, people have waited in jail for close to a month without an attorney. The ACLU litigation surrounding this crisis in Yakima is still ongoing.¹⁰ Even as recently as September 30, 2025, the Marion County Public Defender sued the Oregon Public Defense Commission over caseloads.¹¹ Marion County's Executive Director, Shannon Wilson, stated, "[i]t will increase the number of people facing life-changing consequences with an attorney in name only... And it will force qualified attorneys out of the workforce, making the crisis worsen."

² RCW 10.101.030.

³ [NYC Legal Aid Society Lawyers Threaten to Strike for Higher Pay - The New York Times](#)

⁴ [Healey approves raise for bar advocates, work stoppage continues](#)

⁵ [Public defense shortage puts Oregon's 'public safety at risk,' dept. director says](#)

⁶ [I was one of the many public defenders in Idaho who resigned recently. Here's why. • Idaho Capital Sun](#)

⁷ [Budget shortfall, burnout strain attorneys in Maine's indigent defense system • Maine Morning Star](#)

⁸ <https://www.msn.com/en-us/news/crime/hundreds-of-criminal-cases-dismissed-in-massachusetts-as-lawyers-protest/ar-AA1LJOQY>

⁹ <https://commonwealthbeacon.org/courts/mass-public-defender-agency-hires-22-new-attorneys-in-rapid-expansion/>

¹⁰ [ACLU of Washington sues Yakima County for failing to appoint attorneys to indigent people charged with crimes - ACLU of Washington](#)

¹¹ [Marion County public defenders sue Oregon commission over case quotas - oregonlive.com](#)

King County, so far, has been a lone bright spot in this national crisis. Indeed, as a result of King County's commitment to the WSBA Standards for Indigent Defense Services, DPD has experienced unprecedented success in recruiting experienced attorneys from other jurisdictions. As of October 2025, DPD has successfully hired a record high of 82 well-qualified attorneys. To be sure, DPD has been able to attract some of the country's most talented public defenders. This can be seen in recent news, where murder charges were dismissed due to investigation by DPD professional staff and attorneys.¹² In one case, the police department admitted it arrested an innocent person.¹³

DPD has led the country in addressing the real concerns of public defenders regarding unsustainable workloads. With the support of the King County Executive and Council in the 2025 annual budget, DPD began early implementation of the WSBA Standards for Indigent Defense Services and successfully executed an unprecedented national recruitment campaign, highlighting the advantages of adopting standards based on the NPDWS.

Due to its hiring successes, DPD anticipates having no funded FTE vacancies at the end of the year. This accomplishment is even more impressive because there were doubts that enough attorneys existed to fill these vacancies. Delaying or reducing funding at this critical juncture could be even more problematic based on the national trends. Other jurisdictions that have identified difficulties in public defense are staffing up and will be competing for the same lawyers as DPD. Jurisdictions that have chronically underfunded public defense have eventually had to bear the true cost of the system through dramatic increases in funding, like the Massachusetts example above.

DPD's success in attracting both new and experienced public defenders demonstrates that the department *can* overcome the challenges posed by the national crisis in public defense—but only with adequate resources.

The County Council Should Maintain its Commitment to Supporting DPD

The County Council has historically provided adequate funding for DPD. The executive's proposal reflects a genuine effort to balance the needs of general-fund-supported county services. Unfortunately, however, it maintains the status quo for caseload limits without providing any FTEs to implement Phase II, which will occur during this biennium. Because

¹² [KUOW - Seattle man says dropped murder, arson charges against him were result of 'racist misidentification'](#) and [Charges against Pioneer Square triple homicide suspect dismissed | The Seattle Times](#)

¹³ <https://www.seattletimes.com/seattle-news/law-justice/seattle-police-say-they-arrested-innocent-man-in-deadly-wallingford-fire/>

of DPD's hard work and the support of Council and the Executive, DPD is close to fully implementing Phase II.

The Executive's budget proposal provides 17 FTEs at DPD in its decision package, but these FTEs were awarded in 2025 when assignments exceeded PSB's projections. As a result, DPD filled these positions to deal with the influx of felony cases. The Board expected DPD to receive additional professional staff to support these 17 lawyers. In this sense, the Executive's proposed budget provides no additional FTE authority to DPD over the next two years.

The King County Charter prohibits elected officials from interfering with DPD's exercise of its delegated authority

DPD independence is enshrined in the King County Charter as passed by the voters in 2013. Any attempt to undermine this independence is a significant and concerning departure from these norms. As such, the Board is deeply concerned about a proposed revision of an ordinance governing DPD's operations. This amendment would fundamentally change DPD's caseload structure—both immediately and in the future. The Board's concern is heightened because this proposed ordinance change comes alongside otherwise technical code changes required to implement the budget.

Proposed ordinance 2025-0305 attempts to effectively replace the reference to the WSBA Standards for Indigent Defense Services with the Washington State Supreme Court Standards for Indigent Defense.¹⁴ While the proposed change may appear an issue of simple technical language, it is anything but that. Departing from the WSBA Standards and adopting the Washington State Supreme Court Standards fundamentally changes DPD's caseload standards, a core decision of DPD as an independent department. In implementing its current caseload standards and looking forward to Phase II, DPD has exercised its independent authority and become a leader across the country in public defense. Yet, through the proposed ordinance change, the Executive attempts to impart a radical change through what appears to be at first glance a benign, technical language adjustment.

By adopting this amendment, Council would be attempting to interfere with DPD's independence under Charter 350.20.60 and 350.20.61. Such a monumental change to DPD's ordinance should not be adopted through a budgetary process.

Rejecting the proposed amendment is consistent with Dow Constantine's Opening Brief in *In re Detention of M.E.* There, former Executive Constantine stated that the County Charter provides for DPD independence, precludes oversight by the

¹⁴ [King County - File #: 2025-0305](#)

executive, places responsibility for indigent services with DPD, and is outside the Executive's chain of command:

[The] King County Charter [] and King County Code [] vest **exclusive authority** over indigent defense matters with the King County Public Defender...

The Charter and Code establish an independent Public Defender and [make] DPD **immune from Executive or Council interference...** The Charter **unquestionably places responsibility for the provision of indigent defense services with DPD and its Director.**¹⁵

The Supreme Court's preliminary order states that "[i]mplementation of these caseload standards must be accomplished **as soon as reasonably possible.**"¹⁶ The WSBA has issued guidance on interpreting the Supreme Court's preliminary order specifying that, for jurisdictions already ahead of the Court's implementation schedule, "[d]oing nothing ... is **contrary to implementation 'as soon as reasonably possible.'**"¹⁷

As a home-rule county organized directly under the Washington Constitution, King County's organic law is its Charter. See Article XI, Section 4. The King County Code cannot undermine the King County Charter. Under 350.20.60 and 350.20.61, DPD is responsible for establishing caseload standards and is provided the independence necessary to do so without improper influence from the other branches of government.

Additionally, the Supreme Court's preliminary order does not address other aspects of the standards RCW 10.101.030 requires DPD to adopt, including expert witness fees, support fees, training, etc. RCW 10.101.030 also guides jurisdictions to look at the WSBA Standards for Indigent Defense Services when adopting standards. Furthermore, nothing in the proposed code amendment would change a public defender's ethical requirements under the Rules of Professional Conduct.

Attempting to overrule DPD's duties to set standards through this proposed ordinance would signal to DPD's current staff that they do not have the support of their local government. This would be a stark departure from the collaborative approach to the public defense crisis that has led to DPD's remarkable success in implementing the WSBA's Standards for Indigent Defense Services over the last year. The Board strongly urges the Council not to adopt the proposed amendment.

¹⁵ Opening Brief of Appellant Dow Constantine, In re Detention of M.E., No. 24-6-02709-7, 2025 WL 1828368, at *1, *27 (King Cty. Super. Ct. Feb. 26, 2025).

¹⁶ [Order 25700-A-1644.pdf](#)

¹⁷ [washington-supreme-court-ordered-indigent-defense-standards-and-guidance.pdf](#) (Question 9) (emphasis added).

Reversing course on caseload reduction risks a mass exodus of experienced staff

The Board has consistently heard that the promise of reduced caseloads is essential to both the retention of experienced staff and the recruitment of lateral attorneys sorely needed to handle the most serious felony cases. If that promise is broken, the Board believes a significant portion of DPD's most experienced staff will leave.

This concern is far from theoretical – two members of the Board are themselves former King County public defenders who left the department in large part due to excessive caseloads and the resulting lack of sustainability in public defense work. Another member of the Board works with many former King County public defenders drawn into other areas of public interest law by the promise of more manageable workloads.

The County Council has already recognized the challenge DPD faces in retaining experienced attorneys, having held a hearing on the Class A attorney attrition crisis in 2023¹⁸ and subsequently authorizing retention bonuses for attorneys who become Class A-qualified as an effort to increase retention.¹⁹

If DPD loses these attorneys, it cannot easily replace them. Despite successful hiring efforts, acquiring the experience required by the Supreme Court to represent someone charged with a Class A felony can take years. Over the last decade, the complexity and quantity of discovery in serious felony cases has increased astronomically, including many hours of body-worn camera footage, DNA and other scientific evidence, and cell phone extractions running into thousands of digital pages. If DPD loses a significant number of the few attorneys who are qualified to handle complex cases, it will also have lost the attorneys who can train the next generations of DPD attorneys. The quality of DPD's representation of its clients will suffer from this loss. Panel attorneys will not be able to make up this loss, as DPD has exhausted the available supply of private attorneys willing to contract for this work.

Attrition of experienced public defenders also has downstream consequences to DPD staff—when newer attorneys see experienced public defenders leave because of unsustainable caseloads and burnout, they are less likely to aspire to a career in public defense.

King County has the resources to implement Phase II of the WSBA caseload standards

The Board appreciates that King County is facing a dire budget position for the coming biennium. Even so, the proposed budget's complete lack of truly new hiring authority for

¹⁸ [Law, Justice, Health and Human Services Committee_20231003](#)

¹⁹ [Metropolitan King County Council on 2024-01-16 1:30 PM - REVISED AGENDA](#)

DPD represents a political choice, not a fiscal necessity. Additionally, independent research from Stanford University suggests properly funding public defense staffing can result in cost savings system-wide:

Any jurisdiction interested in lowering [public defender] caseloads, either over a concern regarding the justness of defendants serving longer sentences because of the workloads of their [public defenders] or in an effort to reduce racial disparities or for the quality of life of the [public defenders] themselves, may experience savings on incarcerations as a direct result.²⁰

The Executive’s proposed budget projects that HB 2015 will generate \$203.5 million in new revenue that must be used on public safety.²¹ Of this new revenue, the Executive proposes devoting \$175 million to avoiding projected cuts in the criminal legal system (i.e., \$30.2 million to the King County Sheriff’s Office, \$15.5 million to the Prosecuting Attorney’s Office (PAO), \$7.5 million to DAJD, and only \$3 million to DPD).

Instead of using HB 2015 revenue to grow the criminal legal system—and all but ensure that this system will exceed \$2 billion over the next two years—the Council should instead invest in upstream solutions. HB 2015 expressly authorizes local governments to spend this revenue on diversion programs and other “[l]ocal government programs that have a reasonable relationship to reducing the numbers of people interacting with the criminal justice system.”²² Investing this new revenue in programs that ultimately reduce the number of cases assigned to DPD would necessarily reduce its caseload.

The Board does not take a position on which diversion programs or other upstream investments would yield the greatest reductions in filings. Rather, the Board suggests that these investments be in direct services to marginalized communities. We are confident, however, that implementation of the WSBA’s caseload standards is possible through additional funding to DPD, other investments to reduce filings, or some combination of the two strategies.

Conclusion

Rather than accept a budget that precipitates an inevitable crisis, the Board urges the Council to adequately fund DPD. Specifically, we ask the Council to provide the following FTE authority for DPD in addition to the Executive’s proposed budget:

²⁰ [Overworking Public Defenders](#), July 1, 2025, Caspi, Aviv. This paper suggests that in one jurisdiction, hiring one additional public defender could save over a \$1M in annual marginal incarceration costs.

²¹ [cjsalestax_final.pdf](#)

²² [2015-S.SL.pdf](#)

- 17 professional staff to support the 17 attorneys funded in the 2025 omnibus budget,
- 19 attorneys and 19 professional staff to support timely implementation of Phase II of the WSBA revised caseload standards, and
- 15 3Ls to start in October 2026, as well as,
- Reject the Executive’s proposed amendment to KCC 2.60.026.

DPD has shown over the last year that solving the crisis in public defense is possible. We implore the Council to revise the Executive’s proposed budget to allow DPD to build on the success of the last year and ensure that the County’s budget reflects its True North Values.