

December 31, 2008

The Honorable Julia Patterson  
Chair, King County Council  
Room 1200  
C O U R T H O U S E

Dear Councilmember Patterson:

This letter transmits to the King County Council an ordinance authorizing the executive to enter into a Memorandum of Agreement (MOA) with the United States Department of Justice (DOJ) relating to the operation of the King County Correctional Facility (KCCF). This MOA is the result of a year long negotiation with DOJ and settles the issues raised in the DOJ's November 13, 2007 findings letter regarding the KCCF. The MOA sets forth agreed upon practices and requirements in the areas of protection from harm, suicide prevention, medical care, and environmental health.

King County is committed to providing safe, secure, and humane detention facilities and services to the over 50,000 inmates in our care each year. We disagree with the initial assertion by DOJ that the constitutional rights of inmates are being violated, but we are in agreement with DOJ that there is room for improvement in the practices that they evaluated over the last few years. DOJ's identification of areas of concern created the opportunity to implement new policies, procedures, training, and accountability measures to improve our overall program. Under the MOA we will continue to work with DOJ to achieve additional improvements in our jail system and operations.

This letter also transmits an ordinance for supplemental appropriations to the Department of Adult and Juvenile Detention (DAJD) and Jail Health Services, a division of the Seattle-King County Department of Public Health in the amount of \$1,986,740 and 8.08 FTEs, as outlined in the detail below.

### **Background**

On October 30, 2006, the U.S. Department of Justice's Office of Civil Rights (Special Litigation Section) notified the county of its intent to conduct an investigation of the KCCF. They informed the county that its investigation was focused on custodial sexual misconduct, suicide prevention and contagious disease prevention. On March 6-8, 2007 and August 1-2, 2007, representatives of the DOJ conducted on-site inspections at the KCCF.

On November 13, 2007, the DOJ transmitted a letter detailing its findings to the county. The DOJ commended the staff at the KCCF for their helpful and professional conduct throughout the course of the investigation and also thanked King County for its complete cooperation with the investigation. The DOJ did, however, make findings that required certain improvements in jail practices in the areas of protection from harm, protection from self harm, medical care, and environmental health.

### **Action since DOJ findings letter**

In response to the findings letter, DAJD and the Seattle-King County Department of Public Health (DPH) formed a joint project team to review the issues raised by DOJ. The project team was co-led by the Director of the DAJD and the Director of DPH. In addition to department efforts to review current practices and begin to structure responsive changes, the departments have been in negotiations with DOJ to establish procedures to address the DOJ's concerns. At this time, the county has reached an agreement with DOJ.

Throughout the course of 2008, the council has been briefed and updated on our progress in working with DOJ. I look forward to continuing our partnership as we work to implement the agreements we have reached with DOJ in the MOA.

### **Overview of the MOA**

#### Procedural overview

The MOA sets forth a set of practices and requirements that we have agreed to meet in order to avoid future legal action by the DOJ. Procedurally, the DOJ will file a lawsuit against the county in federal district court after the MOA is signed. At the same time that the lawsuit is filed, the county and DOJ will file a joint motion for conditional dismissal of the lawsuit. This motion will request that the court place the matter on its inactive docket and dismiss the complaint after the passage of three years or earlier if the county is able to achieve substantial compliance with the terms of the MOA in the four areas of protection from harm, suicide prevention, medical care, and environmental health. Significant progress must be made towards substantial compliance within 180 days of execution of the MOA. The MOA has a three-year duration, but can be terminated earlier if the county maintains substantial compliance for at least 18 months. DOJ retains the right to activate its lawsuit if the county fails to fulfill a significant obligation under the MOA and such failure constitutes a violation of inmates' constitutional rights.

#### Substantive overview

##### a. Monitoring and Enforcement

The MOA appoints a monitor to oversee King County's compliance with its terms. Lindsay Hayes, a nationally recognized expert in the area of suicide prevention, is the agreed-upon

monitor. Mr. Hayes will issue reports every four months detailing the county's progress and will personally evaluate the county's compliance with the suicide prevention requirements of the agreement. In the area of protection from harm, he will consult with William Collins, and on medical care, with Dr. Ronald Shansky. The MOA provides that the county will provide funding for the monitor and the required consultants. At this early stage we anticipate these costs to be approximately \$200,000 annually. However, these costs are estimates because the monitor and King County have not determined the precise number of visits and on-site interviewing, the data collection and review, and the research that will be necessary to oversee compliance with the terms of the MOA.

b. Practice Areas Identified in MOA

The MOA identifies several practice areas that will be addressed by DAJD and DPH during the term of the Agreement. The areas for attention are:

Protection From Harm

DAJD's existing policy is to only use force when it is reasonable and necessary under the circumstances. DAJD had already begun to take steps to review its policies and staff training in this area prior to the DOJ findings. In 2008, it implemented two on-shift training programs that provide additional instructor resources to supervisors.

In the MOA, the county agrees to adopt revised policies on use of force and internal investigations. The county also agrees to provide a minimum of four hours per year of training on use of force and defensive tactics in addition to the annual on-shift training corrections officers receive currently. In addition, the county will provide appropriate training for staff in conducting internal investigations. While some of the additional training will be provided within existing budget capacity, to fully implement the degree of training required by the MOA, additional training funds will be needed.

Suicide Prevention

Preventing inmates from self-harm while in county detention facilities is one of the county's paramount duties. The MOA sets forth a series of requirements regarding suicide prevention. The county must implement and ensure adequate suicide prevention policies, procedures and practices consistent with generally accepted professional standards such as those promulgated by the National Commission on Correctional Health Care (NCCHC). King County successfully met these standards in its 2008 accreditation review by NCCHC.

Medical Care

The county is committed to providing quality health care services to the inmates of King County. The MOA requires the county to provide timely and medically appropriate care for inmates with serious medical needs; to implement infection control policies, procedures and

clinical guidelines to prevent the intramural transmission of communicable disease, and to ensure that the administration of medication to inmates is implemented in accordance with NCCHC standards.

### Environmental Health

The county shares the DOJ's concern regarding transmission of infectious diseases within our facilities. Prior to the arrival of DOJ, DAJD and DPH had taken several steps to address this concern, including replacing mattresses, using new cleaning products and taking steps to ensure they are used correctly.

In the MOA, the county agrees to develop and implement policies, procedures and practices for laundry and exchange of linens to protect inmates from risk of exposure to communicable disease, bodily fluids and other pathogens. To this end, the county will provide inmates with two uniforms, two towels and two sets of sheets per week. The county will also provide a daily change of underwear.

### Fiscal overview

While many of the costs associated with the changes required by the MOA will be absorbed within the existing DAJD and Public Health budgets, some additional appropriation authority will be needed in 2009. The table below identifies the additional costs that cannot be absorbed within the existing DAJD and Public Health budgets. These costs are within the budget amounts reserved by the Office of Management and Budget (OMB) in anticipation of this MOA. Because the agreement with DOJ was not reached until late in 2008, it was not possible to include these costs in the 2009 budget.

### **One Time Costs**

Item	Proposal	Amount
Training <ul style="list-style-type: none"><li>• Suicide Prevention</li></ul>	Revisions to curriculum and competency testing	\$50,000
Environmental Health <ul style="list-style-type: none"><li>• Laundry Equipment</li></ul>	2 washers and 3 dryers	\$195,348
<b>Total One-Time Costs</b>		<b>\$245,348</b>

**On-Going (Annual Costs)**

Item	Proposal	Amount
Protection from Harm <ul style="list-style-type: none"> <li>• Training</li> </ul>	4 hours every year	\$200,000
Suicide Prevention <ul style="list-style-type: none"> <li>• Training</li> <li>• Assessment</li> </ul>	No specific number of hours called out for training: must demonstrate staff proficiency. Daily assessment for inmates in isolation housing and group housing	\$411,746
Medical Care <ul style="list-style-type: none"> <li>• Infection Control</li> </ul>	Treatment of communicable diseases	\$99,378
Environmental Health <ul style="list-style-type: none"> <li>• Sanitation</li> <li>• Laundry &amp; Linens</li> </ul>	Per week: 7 pairs of underwear 2 uniforms 2 sets of sheets 2 towels	\$830,268
Monitoring & Enforcement	Monitor and consultants required by agreement	\$200,000 *
<b>Total On-Going (Annual) Costs</b>		<b>\$1,741,392</b>

\* This is an estimate only and may need to be updated once a signed contract is in place.

**Conclusion**

I would like to thank Councilmember Bob Ferguson for his active engagement and keen interest in following the DOJ proceedings. Through that interest, we have been able to build a foundation of understanding and commitment to on-going improvements for the King County Correctional Facility.

Thank you for your prompt consideration of the ordinances that will authorize me to enter into this MOA with the United States Department of Justice, and that will provide supplemental appropriation and FTEs to implement the conditions of this MOA.

The Honorable Julia Patterson  
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If you have any questions or concerns regarding this transmittal package, please feel free to contact Kathy Van Olst, Director Designee of the Department of Adult and Juvenile Detention, at 206-296-1268, or Dr. David Fleming, Director, Seattle-King County Department of Public Health, at 206-263-8695.

Sincerely,

Ron Sims  
King County Executive

Enclosures

cc: King County Councilmembers  
    ATTN: Tom Bristow, Interim Chief of Staff  
          Saroja Reddy, Policy Staff Director  
          Anne Noris, Clerk of the Council  
          Frank Abe, Communications Director  
Bob Cowan, Director, Office of Management and Budget (OMB)  
Krista Camenzind, Budget Supervisor, OMB  
Kathy Van Olst, Director Designee, Department of Adult and Juvenile Detention  
David Fleming, Director, Seattle-King County Department of Public Health  
John Gerberding, Senior Deputy, Prosecutor's Office