



PUBLIC EMPLOYMENT RELATIONS COMMISSION
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PUBLIC EMPLOYMENT
RELATIONS COMMISSION

REPRESENTATION PETITION

Amended Petition in Case #

Applicable Rules: Chapters 10-08, 391-08 and 391-25 WAC

PARTIES Include information for all parties involved.

EMPLOYER King County
Contact David Levin
Address 500 - 4th Ave. Room 450
City, State, ZIP Seattle, WA 98104-2372
Telephone 206-296-8585 Ext.
Email david.levin@kingcounty.gov

PETITIONER Associated Defense Advocates of KC
Contact Hope Baldwin
Address 505 N. 104th Street, Unit 2
City, State, ZIP Seattle, WA 98133
Telephone 206-624-9105 Ext. 350
Email hope.baldwin@acapd.com

CURRENT BARGAINING REPRESENTATIVE
(If one exists) SEIU 925
Contact Karen Hart
Address 1914 N. 34th Street, Suite 100
City, State, ZIP Seattle, WA 98103
Telephone 206-322-3010 Ext.
Email

TYPE OF REQUEST Select One. The petitioner requests:

- RECOGNITION to be certified as the representative of employees currently unrepresented.
CHANGE OF REPRESENTATIVE to be certified as the representative of employees currently represented by another organization.
DECERTIFICATION to no longer be represented by the current organization.
INCLUSION OF UNREPRESENTED EMPLOYEES to have a group of employees added to an existing bargaining unit as described in WAC 391-25-440.
EMPLOYER PETITION a determination by the commission according to WAC 391-25-090.

BARGAINING UNIT

Description of Bargaining Unit: Indicate inclusions / exclusions

Public Defender employees working for King County Office of Public Defense.

Department or Division Office of Public Defense

Number of Employees in Unit Unknown: Maybe 300

Collective Bargaining Agreement
If one exists, the bargaining unit's most recent collective bargaining agreement must be filed with this petition.

Contract Expiration Date: None

OTHER RELEVANT FACTS

Additional information relating to the proposed bargaining unit is attached.

SHOWING OF INTEREST

The petition must be filed with a showing of interest indicating support of at least 30% of the employees in the bargaining unit. The showing of interest cards are confidential and are ONLY filed with PERC.

AUTHORIZED SIGNATURE FOR PETITIONER

Print Name Sydney D. Vinnedge Telephone 206-281-1770 Ext.

Address 3600 - 15th Ave. W., Ste. 201 Email sydney@vinnedge.com

City, State, ZIP Seattle, WA 98119-1330 Signature Date April 19 2013

Other Relevant Facts:

Presently, King County contracts out indigent defense services to four law firms:

Associated Counsel for the Accused (ACA);
Northwest Defenders Association (NDA);
Society of Counsel Representing Accused Persons (SCRAP);
The Defender Association (TDA).

King County has announced that it is not renewing contracts with the four agencies (law firms) and hiring the employees effective July 1, 2013. King County has voluntarily recognized SEIU 925 as the bargaining agent for above referenced employees and refused to bargain with the Associated Defense Advocates of King County. This petition is being filed with a sufficient showing of interest and original cards are being mailed separately to the PERC to protect confidentiality.

Bargaining Unit of Public Defense Employees may include may include:

All full-time and regular part-time attorneys, non-supervisory senior attorneys, investigators, social workers, mitigation specialists, paralegals, administrative support staff, IT staff, and accounting staff working in King County in the Office of Public Defense.

Additional Documents Attached:

- A. SEIU 925 Notice;
- B. Letter from ADA's Hope Baldwin requesting bargaining;
- C. Letter from King County's David Levin refusing to bargain;
- D. Letter from Littler Mendelson, PC.

Exhibit A



SERVICE EMPLOYEES
INTERNATIONAL UNION
www.seiu925.org

**MEMBER RESOURCE
CENTER:**

Early Learning
Toll Free: 877.734.8673

Higher Education
Local: 206.859.5093
Toll Free: 855.859.5093

K-12
Local: 206.568.7113
Toll Free: 877.568.7113

Local Government/Non-Profit
Local: 206.859.5095
Toll Free: 855.859.5095

Seattle Office
1914 North 34th St., Suite 100
Seattle, WA 98103
866.SEIU925 - 206.322.3010
Fax: 206.547.5581

Bellingham Office
1700 North State St.
Bellingham, WA 98225
360.733.7890
Fax: 360.733.8840

Bremerton Office
2718 15th St.
Bremerton, WA 98312

Everett Office
2812 Lombard Ave., Suite 309
Everett, WA 98201

Longview Office
536 Oregon Way
Longview, WA 98632

Vancouver Office
505 East 22nd St.
Vancouver, WA 98663

Yakima Office
8 East Washington
Yakima, WA 98903

January 29, 2013

Dear ACA Employee,

Today, King County recognized SEIU Local 925 as the exclusive representative of employees of the King County Office of Public Defense ("OPD"). That formal recognition follows SEIU 925's majority support from employees across the four private public defender agencies, and the currently unrepresented staff at OPD.¹

I am pleased to welcome you to SEIU Local 925. By uniting together, public defense attorneys and staff have a unique opportunity to have a voice in the reorganization of King County public defense, advocate for clients, protect the jobs of public defense employees, and work toward parity with other County employees, including the Prosecutors Office.

Next Step – Getting to the Bargaining Table

Now that union recognition is done, it is important that we start bargaining with the County as soon as possible. The County also wants to start bargaining quickly, potentially as soon as next week.

In preparation for negotiations, the SEIU Public Defense Council has established the following guidelines:

- The Bargaining Team shall have three representatives from each agency, and one representative from OPD, for a total of 13 members. Of the three from each agency, at least one representative must be a non-attorney.
- The process for selecting Bargaining Team representatives shall be left to bargaining unit members in each agency (and OPD staff), with the requirement that the process be open and fair.
- Only SEIU 925 members can serve, nominate and vote for Bargaining Team members. In the case of previously unrepresented employees, that means signing a Membership Application with SEIU Local 925.
- Bargaining dates are still being arranged, and we will let you know when dates are set. Team representatives should be in place as soon as possible, with a goal of February 6th.

The time commitment for Bargaining Team members can be substantial. Team duties include, but are not limited to:

- Representing the interests of ALL members of the bargaining unit.
- Attending bargaining sessions with the County.
- Attending Team meetings before and after bargaining in order to prepare and respond.
- Acting as a 2-way communicator so that bargaining unit members know what's happening at the table and the Bargaining Team is representing the interests of the members;

¹ King County will become the employer for the employees of the four private public defense agencies on July 1, 2013, if the King County Council approves the *Dolan* settlement agreement and the Executive's proposed reorganization.

- Taking a lead role in activities away from the table that may be necessary to reach a fair settlement with the County.

We Are Stronger Together

We are well aware of the recent poll in which most ACA employees preferred a Guild over joining SEIU 925, and we know that moving forward with the SEIU majority will not be easy for everyone. However, we strongly believe that working together is the best way to protect quality public defense services and the people who provide them.

I will be acting as lead negotiator, working with the Bargaining Team to negotiate with the County. I can be reached at 206-322-3010 or tbass@seiu925.org. Your other contact person at SEIU Local 925 is Ida Kovacic, who works with our public defense members. She can be reached at the same number or ikovacic@seiu925.org.

I look forward to working with you as we move forward.

Sincerely,



Tyler Bass
Field Director

Exhibit B

ASSOCIATED DEFENSE ADVOCATES
OF KING COUNTY

February 27, 2013

David Levin
Office of Labor Relations
500 4th Ave, Suite 450
Seattle, WA 98104

Re: Collective Bargaining

Dear Mr. Levin,

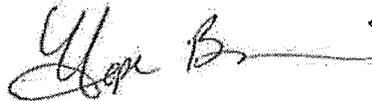
I want to quickly introduce myself to you – I am the president of the Associated Defense Advocates of King County. The Associated Defense Advocates of King County currently represents 100 public defense personnel in King County.

It has recently come to our attention that Local 925 of the SEIU has been engaged in collective bargaining over wages, hours and working conditions with you regarding a potential bargaining unit in the Office of Public Defense.

This Association also requests the opportunity to bargain with the County. You can reach me at (206) 624-8105 Ext. 350. I am available to meet on most weekday mornings between 8:30 and 11:30. I look forward to your response.

Sincerely,

ASSOCIATED DEFENSE ADVOCATES
OF KING COUNTY



Hope Baldwin, President

cc: David K. Chapman, Office of Public Defense
David Levin, KC Office of Labor Relations
Sasha Alessi, KC Office of Labor Relations
Sydney Vinnedge, Emmal Skalbania & Vinnedge

Exhibit C



King County

Office of Labor Relations
King County Executive Office
500 Fourth Avenue, Room 450
Seattle, WA 98104
206-205-5321 Fax: 206-205-1395
TTY Relay: 711
www.kingcounty.gov

SENT VIA PDF SCAN ONLY (IN LIEU OF U.S. MAIL)

March 1, 2013

Hope Baldwin, President
Associated Defense Advocates of King County
505 N. 104th Street, Unit 2
Seattle WA 98133

RE: Your letter of February 27, 2013, requesting to bargain with King County

Dear Ms. Baldwin:

I am in receipt of your letter on behalf of the Associated Defense Advocates of King County dated February 27, 2013.

We are aware that several days ago, the Associated Defense Advocates of King County established a collective bargaining relationship with Associated Council for the Accused (ACA) through an NLRB petition and election. We are assuming that you are requesting that King County begin collective bargaining with the Associated Defense Advocates of King County for the group of employees who are presently employed by ACA and who will become employees of the King County Office of Public Defense, pursuant to the proposed *Dolan* settlement, on July 1, 2013.

On January 29, 2013, King County recognized Service Employees International Union, Local 925 ("SEIU Local 925") as the exclusive bargaining representative of the bargaining unit described below:

All current full-time and regular-part time employees of the Office of Public Defense, excluding managers, supervisors, confidential employees, short term temporary employees (those working less than six months), students, interns, externs, volunteers and work/study employees.

Also excluded are King County employees who perform work in the Office of Public Defense but are organizationally matrixed to other King County agencies, specifically,

March 1, 2013

Hope Baldwin, President, Associated Defense Advocates of King County

RE: Your letter of February 27, 2013, requesting to bargain with King County

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but not limited to, employees of King County Information Technology, the Business and Finance Operations Division, the Human Resources Division, and Benefits and Retirement Operations. Also excluded is conflict counsel that is retained by King County.

This bargaining unit contains current employees of the Office of Public Defense, and once agency employees of ACA, Northwest Defender Association, The Defender Association, and the Society of Counsel Representing Accused Persons become public sector employees in the King County Office of Public Defense, they will be members of this bargaining unit as well. King County recognized SEIU Local 925 as the representative of this large bargaining unit because SEIU Local 925 furnished proof that a majority of eligible employees spanning these five entities signed valid union authorization cards listing King County as the employer.

This large bargaining unit includes the sub-group of ACA employees. Because this group of employees is already represented by SEIU Local 925, King County declines to bargain with the Associated Defense Advocates of King County.

I would be pleased to discuss this matter further with you or with the guild's counsel.

Sincerely,



David S. Levin
Labor Negotiator

DSL\mf
000_3958_LET_130301

cc: Sydney Vinnedge; Emmal Skalbania & Vinnedge
David K. Chapman, Director, Office of Public Defense

Exhibit D



Littler Mendelson, PC
One Union Square
600 University Street, Suite 3200
Seattle, WA 98101.3122

March 6, 2013

Rachelle L. Wills
206.381.4927 direct
206.623.3300 main
206.299.9997 fax
rwills@littler.com

VIA EMAIL AND US MAIL

Karen Hart, President
Ida Kovacic
SEIU Local 925
1914 N 34th Street, Suite 100
Seattle WA 98103

Dow Constantine, King County Executive
Sung Yang, Chief of Staff
David Chapman, Director, Office of Public Defense
Chinook Building
401 5th Avenue
Seattle, WA 98104

Re: **Voluntary Recognition of Public Defender Bargaining Unit by SEIU Local 925 and King County**

To Whom It May Concern:

We represent The Defender Association, and we are writing in regard to King County's recent voluntary recognition of SEIU Local 925 as the exclusive bargaining representative of a unit composed of "[a]ll current full-time and regular part-time employees of the Office of Public Defense, excluding managers, supervisors, confidential employees, short term temporary employees (those working less than six months), students, interns, externs, volunteers and work/study employees." For the following reasons, we believe that voluntary recognition of this unit is premature and potentially violates the rights of certain employees currently employed by the four independent agencies now handling public defense work for King County (hereinafter "defender agencies").

Our present understanding is that for purposes of the voluntarily recognized bargaining unit, SEIU Local 925 and King County decided not to include current defender agencies' managers and supervisors who will become County employees as of July 1 under the terms of the proposed settlement in the *Dolan v. King County* litigation. However, no classification has yet occurred to determine which individuals currently employed by the defender agencies will be non-managerial/supervisory staff and who will be considered managers and supervisors on July 1. Indeed, someone working as a staff investigator today may be selected prior to July 1 as an investigation supervisor, and never again work in a position that, as of July 1, would be considered part of the bargaining unit represented by SEIU Local 925. By the same token, there is no guarantee that anyone currently working as a manager or supervisor will have such a position as of July 1 when individual defender agencies' employees will be consolidated together under the County umbrella. Everyone presently working at the defender agencies is in exactly the same position with respect to employment after July 1: non-managerial/supervisory

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employees have no idea whether they will be retained, at what salary and in what capacity (which are among the issues presently being bargained by SEIU 925 and the County) and current managers and supervisors have no idea what their jobs will be and no reason to expect that they will or will not be considered supervisors by the County. Indeed, King County has already acknowledged that current managers and supervisors may not retain their positions after the July 1 consolidation, and OPD Director Chapman has indicated that new management teams may be organized, at least in part, prior to July 1.

The above presents a problem for purposes of conducting negotiations now about terms and conditions of the transfer of employees from the defender agencies and the Office of Public Defense. By excluding current defender agencies' managers and supervisors from the voluntarily-recognized unit and related negotiations about the terms and conditions of the transfer and consolidation (even though the defender agencies' managers and supervisors may very well lose their managerial/supervisory positions as a result of the consolidation), the terms and conditions of the transfer for these managers and supervisors will be at best, overlooked, and, at worst, completely disregarded. For example, SEIU Local 925 and King County may negotiate certain seniority and layoff provisions for current defender agencies' non-managerial/supervisory employees being consolidated under the County umbrella and ignore the effects of the consolidation on defender agencies' managers and supervisors. Because these managers and supervisors were excluded from the unit and the negotiation process early on, their seniority and experience may be disregarded. As a consequence, although experienced and well-deserving of continued employment within the Office of Public Defense should an insufficient number of managerial/supervisory positions exist after the consolidation, these employees could be denied supervisory positions and then subject to lay off before non-supervisory defender agencies' staff who are currently part of the voluntarily recognized unit simply because the defender agencies' managers and supervisors were not a part of the unit during the negotiations that occurred prior to the transfer of operations and their interests were not fairly represented.

In addition, non-supervisory employees of one defender agency have recently chosen not to be part of the voluntarily recognized SEIU Local 925 unit and instead voted to be represented by a whole different union (the Guild). Many employees of that agency declined to sign cards supporting recognition of SEIU Local 925, and they apparently were prohibited from running for positions on SEIU Local 925's negotiating team or voting in the election for that negotiating team. It appears that their interests are currently unrepresented by SEIU Local 925 although they clearly fall within the definition of the bargaining unit and, in all likelihood, will be subject to the July 1 consolidation, their interests and rights may be ignored during the County and SEIU Local 925's negotiations (similar to current managers and supervisors). As a result, they may lose seniority and layoff rights simply because they chose to exercise their right to be represented by another labor union.

The aforementioned scenarios are certainly not the only possible outcomes that could occur as a result of the County and SEIU Local 925's negotiations, but, they do illustrate the potential

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pitfalls of premature voluntary recognition of a unit that is still in a great deal of flux. Further, we are concerned that this recognition may give rise to potential legal challenges later on. The Public Employment Relations Commission (the "Commission") has held that labor unions may violate their duty of fair representation and public employers may commit unfair labor practices by voluntarily recognizing and bargaining over the terms and conditions of employment for a unit that arbitrarily excludes and prejudices the rights of other employees. *See Castle Rock Sch. Dist.*, Decision 4722-B (Educ. 1995). *See also City of Port Townsend*, Decision 6433-A (PECB, 1999) ("Improper exclusion of an employee from the bargaining unit in which he or she belongs is a basis for an interference charge filed by an individual employee against the employer and/or union."). For example, in *Castle Rock School Dist.*, *supra*, the Commission rejected the union's argument that it could simply ignore the interests of non-certificated coaching staff and only bargain over the terms and conditions of coaching staff who were certificated and part of the voluntarily recognized unit. The Commission reasoned that the voluntarily recognized unit "[was] based on the identities of the current personnel ... [and] suffer[ed] from artificially dividing [bargaining for] that ... body of work." As a consequence, there would be constant "competition for that body of work", resulting in complications in connection "with the administration of hiring, transfer, promotion, demotion, layoff, recall, discipline and discharge of such employees."

The situation here raises the same risks articulated by the Commission in *Castle Rock School District*, *supra*. The voluntarily recognized unit is based on the identities of non-managerial/supervisor personnel who currently work for the defender agencies. Following the proposed consolidation of defender agencies on July 1 under the County umbrella, managers and supervisors of these defender agencies (who are at the present time excluded from the voluntarily recognized unit and not represented during SEIU Local 925 and the County's negotiations) may no longer continue to hold their same positions and may be competing for the same body of work resulting in complications regarding layoffs, bumping rights, etc. Likewise, defender agency employees who have chosen not to support SEIU Local 925 will similarly be excluded from negotiations between SEIU Local 925 and the County over the consolidation, and will be competing over the exact same body of work after the consolidation is effective. Given the uncertainty over what will occur on July 1, bargaining over terms and conditions of employment, which may very well prejudice groups of employees who are, at the present time, excluded from the voluntarily recognized unit, may give rise to a claim that SEIU Local 925 has violated its duty of fair representation and that King County has committed an unfair labor practice.

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Thank you for your attention to this important issue, and please do not hesitate to let us know if you have any questions about this letter.

Best regards,

Rachelle L. Wills

Rachelle L. Wills

RLW/tdh

by TDA dble