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Necessary and Reasonable Funding for the Superior Court: A Constitutional Imperative

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KCBA Court Funding Task Force

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I. KING COUNTY IS OBLIGATED TO PROVIDE THE SUPERIOR COURT WITH THE FUNDING REASONABLY NECESSARY TO PERMIT THE COURT TO FULFILL ITS CONSTITUTIONAL AND STATUTORY MANDATES

The King County Superior Court is not simply another program capable of incurring debilitating budget cuts imposed on it by the County. Although the Superior Court is sensitive to the fiscal challenges facing the County (as evidenced by its willingness to provide deep cuts to its already thin budgets), so too must the other branches of government understand that the court system is not an ordinary competing cause in the overall budget.¹ Instead, the County Executive and Council share an affirmative legal duty to provide this co-equal branch of government with the funds reasonably necessary for the Court to fulfill its constitutional duties including the holding of court and the efficient administration of justice.²

The obligation to provide the judiciary with necessary funding is firmly rooted in our adherence to the separation of powers doctrine.³ As our Washington Supreme Court has explained, “the spirit of reciprocity and interdependence requires that if checks by one branch undermine the operation of another branch or undermine the rule of law which all branches are committed to maintain, those checks are improper and destructive exercises of that authority.”⁴ It would therefore be “illogical to interpret the Constitution as creating a judicial department with awesome powers over the life, liberty, and property of every citizen while, at the same time,

¹ See, e.g., *Commonwealth ex rel. Carroll v. Tate*, 442 Pa.45, 67, 274 A.2d 193, 197 (1971) (Pomeroy, J., concurring) (“No doubt the courts must be mindful, in making the estimates of their financial needs, of the needs of the total community and of the problems of the legislative branch in funding them; but the courts having made their determination as being reasonably necessary to performance of their constitutional functions, it is not for the legislative branch to deny the reasonableness or the necessity on the ground that something else is more urgent or more important.”), *cert. denied*, 402 U.S. 974 (1971).

² See *In re Salary of Juvenile Director*, 87 Wn.2d 232, 246, 522 P.2d 163 (1976) (citing *Carroll v. Tate*, 442 Pa. at 53, 274 A.2d at 197; *O’Coin’s, Inc. v. Treasurer*, 362 Mass. 507, 287 N.E. 608 (1972); *Wayne Cir. Judges v. Wayne County*, 386 Mich. 1, 190 N.W.2d 228 (1971)).

³ See, *Zylstra v. Piva*, 85 Wn.2d 743, 752-54, 539 P.2d 823 (1975) (Utter, J., concurring) (discussing the Founding Father’s efforts to carefully divide governmental power and their familiarity with the struggle for an independent judiciary in England).

⁴ *Juvenile Director*, 87 Wn.2d at 245 (quoting *O’Coin’s*, 287 N.E.2d at 611-12).

denying to the judges authority to determine the basic needs of their courts as to equipment, facilities and supporting personnel.”⁵

Under the King County Charter, this duty is shared between the County Executive and the Council. The budget process is initiated by the Executive who has the initial responsibility of presenting the Council with a complete budget.⁶ The Council then exercises its legislative power by adopting and enacting the appropriations, and tax and revenue ordinances necessary for implementing the budget.⁷ The Executive retains a veto power over any object of expense of an appropriation ordinance which may be overridden by the Council.⁸

The current budget targets presented by the Executive for the Superior Court, Department of Judicial Administration, and the Sheriff’s Office for court security would result in the constitutionally impermissible slashing of necessary resources critical to the efficient administration of justice and the holding of court. Were the Council to adopt them, the County would fail to meet its constitutional duty.⁹ Instead, the County – acting through both the Executive and the Council – are obligated to enact a budget that satisfies the constitutional imperative of necessary funding for the operations of the Courts.

⁵ *Id.*

⁶ *See* King County Charter, § 410 (“Presentation and Adoption of Budgets”); § 320.20 (“[Executive] Powers and Duties”).

⁷ *See id.* § 410 (“Presentation and Adoption of Budgets”); § 220.20 (“[Council] Powers and Duties”).

⁸ *Id.* §230.20.

⁹ If amicable efforts to provide the Court its necessary funding were to fail, the judiciary has the inherent authority to compel those funds by writ through an adversarial proceeding. Washington’s recognition of the court’s implied power to compel the expenditure of public funds is neither a recent innovation nor novel. *Juvenile Director*, 87 Wn.2d at 246-47 (noting that this inherent judicial power has been often exercised and remains an active legal principle). As the Pennsylvania Supreme Court explained, “[u]nless the legislature can be compelled by the Courts to provide the money which is reasonably necessary for the proper functioning and administration of the Courts, our entire Judicial system could be extirpated, and the Legislature could make a mockery of our form of Government with its three co-equal branches[.]” *Carroll v. Tate*, 442 at 57 (quoting *McCulloch v. Maryland*, 17 U.S. 316 (Marshall, C.J.)). *See also* Gary D. Spivey, Annotation, *Inherent Power of Court to Compel Appropriation or Expenditures of Funds for Judicial Purposes*, 59 A.L.R.3rd 569, 579 (1974) (“The procedural device by which the courts have primarily sustained their inherent power to compel the appropriation or expenditure of public funds for judicial purposes has been the writ of mandamus.”).

II. THE COUNTY EXECUTIVE'S REVISED BUDGET TARGET WOULD REQUIRE THE COURT TO ELIMINATE PROGRAMS NECESSARY FOR THE EFFICIENT ADMINISTRATION OF JUSTICE

1. King County Superior Court Has Offered Over \$4.5 Million in 2009 Budget Savings

The King County courts are not insulated from the budget challenges facing the County as it plans for 2009. At the beginning of the 2009 budget process, the Superior Court was assigned a target budget reduction of \$3,838,303 – a figure equal to 8.65% of its proposed status quo budget.¹⁰ The Court responded with a proposal that would meet this goal. To find the necessary savings, the Court took an exacting look at its budget to identify auxiliary functions that could be reduced or eliminated while protecting the Court's core functions. The Chief Administrative Officer and the Budget Committee established and adhered to six underlying principles to accomplish its task:

- 1) the Court must ensure its core function and programs/personnel that support the core function of the court remain intact;
- 2) the core function of the Court is to try cases and provide a forum for the resolution of legal disputes that is accessible to all citizens;
- 3) within the core function of the Court, it is necessary to prioritize certain types of cases which, by constitutional provision, statutory mandate, or other rule of law, must be given priority for trial;
- 4) those priorities in order of the above-referenced constitutional or law mandates are:
(i) criminal cases, (ii) civil cases involving issues of liberty or personal safety such as juvenile dependency and termination of parental rights cases, ... family law cases involving parenting plans for minor children, domestic violence and anti-harassment petitions, ... (iii) all other civil cases;
- 5) the Court will use best efforts to retain those programs and/or services required by statutory mandate to the extent those programs and/or services are funded by either state or local revenue sources;
- 6) after consideration of any potential revenue increases, the reduction in expenditures shall be prioritized in the following manner: (i) efficiencies and potential cost savings across the entire court organization shall be calculated; (ii) revenue backed programs that meet the criteria in 1-4 shall be given priority for retention; and (iii)

¹⁰ Working with the Executive and Council to find budget savings is nothing new to the Superior Court. From 2000-2008, the Court reduced its expenditures by \$3,140,452 while enhancing revenues by \$1,216,774, thus providing the County with savings of over \$4.3 million during that time.

‘discretionary’ services/programs shall be subject to reduction before ‘mandatory’ services/programs.

Among the proposed cuts were: (i) the elimination of 3.5 juvenile probation counselors (\$287,148)/(3.5 FTE); (ii) the modification of court coordinator and bailiff responsibilities (\$184,151)/ (2.5 FTE); (iii) the avoidance of filling open court reporter vacancies (\$340,621); and (iv) savings in juvenile and adult detention costs (\$400,000).

In early August 2008, when the Executive projected an additional \$20 million deficit for the County, the Superior Court was assigned a revised target reduction calling for another \$1,307,706 in savings.¹¹ Once again, the Court meticulously examined its proposed 2009 budget; however, this time it could only identify further savings of \$729, 579.¹² After comprehensively combing the budget, the Court determined that there were no additional items that could be cut without impermissibly jeopardizing the Court’s ability to hold court, efficiently administer justice, or otherwise accomplish its core function. The Budget Committee determined the next budget casualty would be the elimination of Family Court Services (“FCS”) and the facilitator program.¹³ However, because of the fundamental role these programs address in protecting the lives, liberty, and safety of at-risk children and litigants, the Superior Court cannot eliminate them and continue to meet its constitutional and statutory mandates.

¹¹ Additionally, the Executive has recently announced a county-wide “furlough” plan which, if adopted, would result in the closure of all County offices for ten additional working days in 2009. The Executive has indicated that the County’s court system must participate. However, the Superior Court is constitutionally forbidden to close. *See* WASH. CONST. Art. IV, Sec. 6 (providing that the Superior Court “shall always be open, except on nonjudicial days.”). Nonjudicial days consist of only weekends and recognized holidays; King County is without authority to announce additional closures. Nevertheless, according to the Executive, if the Court were to remain open on County furlough days, the contrast presently included in the budget would be imposed on the Court resulting in the need to identify approximately \$1 million more in savings.

¹² The Court proposed eliminating: 1.0 Unified Family Court Program Manager (\$93,205); 1.75 Social Workers (\$126,464); 1.0 unfilled commissioner position (\$166,705), 1.0 court reporter (\$73,205), and the trial court improvement fund in 2009 for KCMS Replacement (\$270,000).

¹³ Although beyond the scope of this paper, the Superior Court Chief Administrative Officer is capable of providing a detailed analysis of its budgeting process to illustrate that there are no other programs and expenses of lesser priority that can be reduced or eliminated to meet the Executive’s targets.

2. Family Court Services and the Facilitator Program Provide Essential Functions in the Administration of Family Law Justice

King County's FCS serves the most underserved and at-risk citizens of King County – children subjected to physical, sexual or emotional abuse, domestic violence, substance abuse, or mental health problems in the home. Upon the filing of a family law petition, these cases are heard on the family law commissioner calendar for most pre-trial matters including temporary parenting plan orders. Dissolution, paternity or non-parental custody proceedings involving minor children and containing allegations of physical abuse, sexual or emotional abuse, domestic violence, substance abuse, or mental illness are transferred by the commissioner to FCS for investigation and evaluation. Similarly, all civil domestic violence protection order petitions under RCW 26.50 are heard on the family law commission calendar. In appropriate cases, the family law commissioner will transfer the case to FCS for a domestic violence assessment report. In these cases, FCS conducts its domestic violence risk assessment and provides its report to the Commissioner within six weeks so that the commissioners can enter parenting plans that take into account the safety of the child and the treatment needs of the family members. Without these reports, it is estimated the hearing time for these cases would triple.¹⁴ In 2007 alone, FCS received (i) 217 referrals for domestic violence assessments resulting in 192 completed assessments and (ii) 523 referrals for parenting evaluation and assessed the need for services resulting in 324 completed evaluations.¹⁵

¹⁴ Further, cases would also be set for evidentiary and/or repeated hearings increasing commissioner calendars by at least 3 days a week

¹⁵ FCS also performs mediation for low-income litigants; providing low cost, easily accessible mediation is one of many critical services provided by FCS which helps reduce the number of trials. Mediation is required by local rule in all parenting plan disputes other than those that include allegations of domestic violence, physical, sexual or emotional abuse. The fee for FCS mediation is \$500 shared between the parties with sliding scale based on combined income. In 2007, 1,195 referrals for mediation were made to FCS resulting in 220 mediations which resolved nearly 75% of the matters mediated. If not available, up to 100 additional trials and or prolonged hearings may result from unresolved parenting plans.

Comprised of 10 social workers, 2 supervisors, and 4 support staff,¹⁶ FCS renders services at the very core of family law adjudication. First, based on FCS evaluations and domestic violence assessment reports, the family law commissioner is able to order services and other protections during the pendency of the matter that are vital to the immediate welfare and safety of the child and the family.¹⁷ Second, early neutral evaluation has led directly to an uptick in early settlements, thus providing the Court significant cost savings.¹⁸ Third, and perhaps most critically, the neutral evaluation equips the judge with a critical resource in making parenting plan determinations. In preparing its report, the FCS social worker has the authority to consult any person who may have information about the child and the potential parenting or custodian arrangement, including medical, psychiatric or other expert persons who have served the child in the past, and police reports.¹⁹ Moreover, the report itself may be received into evidence notwithstanding the hearsay it contains.²⁰

The import of these reports cannot be overstated. Of the cases handled by FCS, 93% involve litigants with a combined family income of less than \$50,000; 62% of those cases involved family incomes below \$35,000. Without these reports, these parties would be unable to marshal the evidence necessary to provide the Court adequate and necessary information to result in an informed determination regarding the best interests of the child.²¹ Because so many

¹⁶ The first round of proposed budget cuts called for the reduction of 1.75 social worker FTE, and for the FCS Program Manager to be tasked with the additional role of Unified Family Court Program Manager after that position was cut. For the time being, the 1.75 social worker FTE has been put into a “lifeboat” by the County Executive.

¹⁷ Whether the parties have complied with the commissioner’s interim order is also an invaluable piece of evidence for the judge in making final parenting plan determinations.

¹⁸ Approximately 6% of family court proceedings go to trial compared to 1% of civil cases. While challenging to quantify, the savings associated with early settlement provide budgetary relief to the court and aid in the efficient administration of justice by lessening the backlog of cases for trial.

¹⁹ See RCW 26.09.220(2).

²⁰ See RCW 26.09.220(2); see also ER 1101(c)(4) (making evidence rules not applicable to domestic violence protection applications). Without FCS or equivalent reports, the Court estimates that family law trials will increase from 2 days to 4. Therefore, with an average total court cost of \$2,811 per trial day and 262 family law trials per year, elimination of the evaluation services would result in an estimated \$1,472,964 increase in the Court’s trial costs alone.

²¹ The “best interests of the child” is the standard by which the court must determine and allocate the parties’ parental responsibilities in all family court proceedings. RCW 26.09.002.

Family Court participants appear *pro se*,²² these litigants simply do not have the financial resources to cause witnesses to appear on their behalf, thus leaving the court to sort through a “he-said/she said” as it strives to meet its statutory requirement to provide for the safety and well-being of the child.²³

RCW 26.09.187 provides guidelines the Court considers in developing a parenting plan. For example, the Court must make residential provisions for each child that encourages each parent to maintain a loving, stable, and nurturing relationship with the child by considering, among other things, (i) the relative strength, nature, and stability of the child’s relationship with each parent, (ii) the emotional needs and development of the child, and (iii) each parent’s past and potential for future performance of parenting functions.²⁴ The statutory scheme also *requires* the Court to place certain restrictions on the parenting plan if a parent has physically, sexually, or emotionally abused a child, or if there is a history of domestic violence.²⁵ The Court, therefore, has a statutorily-mandated obligation to determine whether conditions of domestic violence or abuse exist, and if so, craft a parenting plan that protects the safety of the child. By statute, the Court may seek the advice of professional personnel whether or not they are employed by the Court on a regular basis.²⁶ The Court may order an investigation or appoint a Guardian ad litem or both.²⁷ The Court may also appoint an attorney to represent the child – at public expense if the parents are indigent.²⁸ Recently, the Washington Supreme Court recognized that these safeguards are available to the Court to protect the best interests of the child and provide protection for both parents from erroneous, uninformed decisions.²⁹ The FCS-

²² Approximately 80% of family court participants appear *pro se* at some point in the progress of the case to conclusion.

²³ *See, e.g., Dugger v. Lopez*, 142 Wn. App. 110, 112-16, 173 P.3d 967 (2007) (describing a lengthy 5 day trial concerning the sole issue of establishing a parenting plan, where the parties lacked the resources to fund a guardian ad litem for the child and one parent appeared *pro se*).

²⁴ *See* RCW 26.09.187(3)(a).

²⁵ RCW 26.09.191.

²⁶ RCW 26.09.210.

²⁷ RCW 26.09.220 & 26.12.175; 177.

²⁸ RCW 26.09.110.

²⁹ *See In re Marriage of King*, 162 Wn.2d 378 (2007). Interestingly, the *King* court pointed to these safeguards as one of its rationales for determining that indigent parties were not entitled to Court-appointed counsel to represent

generated neutral evaluations and reports have filled a critical gap and have become an indispensable and reliable tool to the Court in making these life-saving determinations.

In 2007, the Washington legislature adopted new findings underscoring the purpose and function of the Family Court:

In order to better implement the existing legislative intent the legislature finds that incentives for parties to reduce family conflict and additional alternative dispute resolution options can assist in reducing the number of contested trials. Furthermore, the legislature finds that the identification of domestic violence as defined in RCW 26.50.010 and the treatment needs of the parties to dissolutions are necessary to improve outcomes for children. When judicial officers have the discretion to tailor individualized resolutions, the legislative intent expressed in RCW 26.09.002 can more readily be achieved. Judicial officers should have the discretion and flexibility to assess each case based on the merits of the individual cases before them.³⁰

In King County, FCS-administered services are the primary vehicle to meeting these statutory objectives for the county's most at-risk citizens. FCS fosters alternative dispute resolutions by permitting litigants who otherwise lack the resources the opportunity to participate in mediation programs.³¹ As explained above, FCS neutral evaluations are instrumental in identifying domestic violence and proposing treatment plans necessary to safeguard the welfare of children. Likewise, for many cases, they are the most useful resource (if not the only resource other than the parties' own testimony) at the disposal of the judiciary as it tailors individualized resolutions necessary to ensure a minor child's safety and welfare.

Family Court administers a vital and unique segment of justice in the court system. When a minor child is involved in the proceedings, its mandate is clear: it must always act in the best interest of the child. When the safety and welfare of a child are at risk because of allegations of domestic violence, substance abuse, and/or mental health issues, FCS is immediately called upon

them. If these safeguards were to be stripped, the Supreme Court may be forced to revisit the issue resulting in a significant increase in costs to be borne by the counties.

³⁰ RCW 26.09.003.

³¹ FCS evaluations and reports also aid in the reaching of settlements in mediation by providing strong evidence of the information the judge would rely on if mediation were to fail.

to aid the Court in an assessment of the child's best interest. Without these services, for a great many cases, the Court would simply be unable to make reasonably informed judgments; accordingly, effective and efficient justice could not be administered. The County has an obligation to provide the necessary funds to maintain this critical program.

Like FCS, the facilitator program provides an indispensable service to an underserved and at-risk section of the King County community; they assist *pro se* parties as they attempt to navigate the family court system. These citizens, many of whom lack English literacy, require basic assistance to understand and complete the mandatory, increasingly-complex filing forms. The program assists approximately 10,000 persons annually. For most, without access to the facilitator's services, family court justice would be hidden behind a wall of inscrutable forms and procedures.³² If the Superior Court is going to provide meaningful access to justice for all of its citizens, this program must be continued. Accordingly, the County has a duty to provide the funding necessary to maintain this critical program.

III. THE SUPERIOR COURTS WOULD BE PERILOUSLY UNDER-PROTECTED IF THE SHERIFF'S BUDGET REDUCING PROPOSALS ARE IMPLEMENTED.

The County's obligation to provide necessary funding includes meeting the Court's basic equipment and facilities requirements.³³ In the post-Blackwell era,³⁴ issues of security are at the very core of the Court's facilities needs.³⁵ If the Courts are to remain the forum for resolving

³² Those who do successfully manage to access the Court system would create a significant drain on the Court's resources as judges and courtroom staff inefficiently provide assistance and guidance that otherwise would have been rendered by the facilitators.

³³ See RCW 2.28.139 ("The county in which the court is held shall furnish the court house, a jail ... and other incidental expenses of the court house and court which are not paid by the United States."); see also *Juvenile Director*, 87 Wn.2d at 245 (quoting *O'Coin's*, 287 N.E.2d at 611-612).

³⁴ On March 2, 1995, Timothy Blackwell entered the King County Superior Court to attend closing arguments in his marriage-dissolution trial. In the hall outside the 2nd floor courtroom, he removed a 9mm semiautomatic pistol from his briefcase and shot his estranged pregnant wife and two of her friends from close range. All three women died.

³⁵ These problems are not unique to the King County court system. Numerous states have faced similar security issues and recognized the court's inherent power to ensure sufficient security to support the orderly operation of the courts. See, e.g., *In re Mone*, 719 A.2d 626, 632 (N.H. 1998) ("An integral part of any court's duty to administer justice and fairly adjudicate disputes is to ensure that all parties have the opportunity to advance their cause in an atmosphere of safety, decorum, and fairness."); *Bd. Of County Comm'rs, Weld County v. 19th Jud. Dist.*, 895 P.2d 545, 548-49 (Colo. 1995) ("Without security the public's confidence in the integrity of judicial system is threatened. The proper administration of justice requires that courts operate in a safe and secure environment."); *Epps v.*

disputes peacefully, they must be able to maintain the law enforcement presence necessary to operate safe and secure facilities.³⁶ Litigants, jurors, witnesses, attorneys, staff, and the public who come to the court – whether freely or by compulsion – must not fear for their immediate safety, otherwise the orderly administration of justice (or the holding of court entirely) will be impermissibly impaired. The Sheriff’s Office’s proposed budget reduction directly threatens the safety of the Superior Courts. The County must allocate the funds necessary to guarantee the orderly and safe operation of these facilities.³⁷

The budget targets demanded of the Sheriff’s Office severely hamper its ability to safeguard the Superior courthouses in Seattle and Kent. Currently, the Sheriff’s office provides an armed deputy at courthouse entrances as well as roving deputies (“rovers”) who provide security to the courtrooms and interior halls. These rovers can be requested in advance when a judge knows that his/her calendar has a high security risk, and are often called upon to act quickly when emergencies dictate. They also assist in placing persons into custody and provide the Court with the necessary general law enforcement presence needed to serve as a deterrent to dangerous conduct and to provide the courthouse and its visitors with meaningful security.

In response to the Executive’s revised budget targets, the Sheriff has proposed to eliminate rovers. Judges will lose the opportunity to arrange for protection to prevent dangerous

Commonwealth, 626 S.E.2d 912, 918 (Va. App. 2006) (“Courts have the inherent authority to ensure the security of their courtrooms.”).

³⁶ It is the responsibility of the judiciary, and within its inherent power and its statutory authority under RCW 9.41.300(1)(b), to take reasonable steps to provide access to justice for all citizens, and to promote the safety of persons, including parties, witnesses, jurors and staff, while present in court facilities. *In re Screening for Security in the King County Courthouse, in Seattle, Washington, The Courts Building at the Regional Justice Center in Kent, Washington, the Alder Tower at the Youth Services Facility in Seattle, Washington, and the Courtroom at Harborview Hall in Seattle, Washington*, Amended Order re Screening for Security (No. 04-2-12050-1 SEA) at ¶ 8.

³⁷ King County Councilman Dow Constantine has demonstrated a keen knowledge of the dangers inherent in an inadequately secured courthouse. In an article written for the National Center for State Courts, he explained that courthouse security means that “any person entering the King County Courthouse ... has the right to know that comprehensive and competent entrance screening has been performed to keep weapons out of the building. They have the right to expect that the premises will be monitored by trained security personnel who can quickly intervene in any violent situation. They should expect a calm, controlled atmosphere that gives them a justifiable feeling of safety.” Dow Constantine, *Citizens Have a Right to Safety in the Courthouse*. He also noted that courthouse shootings are often intensely personal – half the 26 shootings in U.S. courthouses since 1990 involved family law disputes such as child-custody, divorces, or no-contact-orders involving family members, and that many of the shooters had been convicted or accused of spousal abuse. *Id.*

situations before they escalate. When dangerous situations do arise spontaneously, without rovers at the Court's disposal, law enforcement response time will be significantly enlarged. Equally problematic, responding law enforcement must be drawn from the building's entrance, therefore exposing the weapons screening process to a lapse in armed security or forcing the temporary closing of the building's public access.

By the very nature of what goes on in the courthouse, emotions run high. Often litigation parties, and others, bring their mental problems and unreasoned behavior to the courthouse. The Superior Court has an obligation to ensure that the Court's security measures are adequate to protect the public and court staff.³⁸ The County must meet its duty to provide the Sheriff's Office with the resources necessary to assure the Superior Court continues to be a safe and secure environment.

IV. THE HIGHLY ACCLAIMED DRUG COURT ALSO FACES ELIMINATION IF NECESSARY FUNDING FOR THE DEPARTMENT OF JUDICIAL ADMINISTRATION IS NOT FORTHCOMING FROM THE COUNTY

Although the Department of Judicial Administration ("DJA") technically falls within the province of the Executive branch, the judiciary has been, and continues to be, responsible for establishing and implementing its budget.³⁹ Not surprisingly, the DJA, like the Superior Court, faces daunting budget targets imposed by the Executive for 2009.⁴⁰ In total, the DJA faces total target budget savings of nearly \$2.1 million, and has responded with proposed savings totaling approximately \$1.6 million. If the \$448,000 contra remains, DJA will be forced to eliminate its two non-mandatory programs including the universally praised Adult Drug Diversion Program (the "Drug Court"). To find the savings, DJA would be forced to implement a policy of no new

³⁸ See *In re Security of the King County Courthouse*, No. 12050G (95-2-12050-4), at ¶ 8 (General Order establishing the weapons screening requirement for Superior Court).

³⁹ See *King County Charter* §350.20.20 ("The department of judicial administration shall be administered by the superior court clerk who shall be appointed by and serve at the pleasure of the superior court judges in the county. ... The department of judicial administration shall be an executive department subject to the personnel system and shall utilize the services of the administrative offices and the executive departments, but it shall not be abolished by the county council.")

⁴⁰ The 2009 savings identified by the DJA come on top of \$1,419,839 in expenditure reductions and \$,572,843 in revenue enhancements since 2000.

defendants in Drug Court thereby slowly eliminating the program with a resultant savings of roughly \$415,000. Domestic violence prevention services would also be eliminated providing savings of \$150,000 which would satisfy the Executive's targets.⁴¹

Recipient of the Transforming Communities Award from the National Association of Drug Court Professionals in 2007, the Drug Court is a pre-adjudication program that provides eligible defendants the opportunity to receive drug treatment in lieu of incarceration. The mission of the program is to combine the resources of the criminal justice system, drug and alcohol treatment and other community services to compel the substance-abusing offender to address his or her substance abuse problem by providing an opportunity for treatment and holding the offender strictly reliable. After choosing to participate in the program, defendants come under the court's supervision and are required to attend treatment sessions, undergo random urinalysis, and appear before the Drug Court judge on a regular basis.⁴² If defendants meet the requirements of the program, charges are dismissed; if defendants fail to make progress, they are sentenced on their original charge.⁴³ The program provides treatment to an estimated 550 individuals at any one time. Elimination of this unqualified success would result in short and long-term costs to the County. In the short-term, the County loses the benefit of the expedited proceedings from those offenders who qualify for the program. More critically, the program has been a demonstrable success in steering offenders out of the criminal justice system and providing them the treatment necessary to curb recidivist activities and continued burdens on the county's resources. Furthermore, because the program leverages state dollars, the return on the County's investment is even more pronounced.⁴⁴ The County must find the resources

⁴¹ DJA also considered another cost-saving strategy whereby it would eliminate all customer service staff positions in the department associated with assistance to *pro se* litigants; however, like elimination of the facilitator program, such reductions would have an impermissible impact on the department's ability to meet its statutorily-based service standards to the citizens and the court system.

⁴² See RCW 2.28.170(2).

⁴³ The immediacy of a prison sentence in the Drug Court system provides a meaningful added incentive for offenders to actively engage in their rehabilitation that is not available in other social services.

⁴⁴ For the most recent 2 year operating period, the Drug Court received \$3,763,224 in state appropriations for the program.

necessary to allow this critical and successful program to withstand the pressures of the budget squeeze.

V. CONCLUSION

The County Executive's current budget proposals fall below the levels necessary to guarantee the County's Superior Court system continues to meet its constitutional mandates. Without adequate and necessary funding, programs necessary for the Court to efficiently administer justice would face elimination. Reductions in courthouse security further threaten the entire operations of the Court. The County must re-examine its targets and guarantee that the Courts receive their constitutionally required funding.