

City of Philadelphia



Council of the City of Philadelphia
Office of the Chief Clerk
Room 402, City Hall
Philadelphia

(Resolution No. 130611)

RESOLUTION

Authorizing City Council’s Committee on Law and Government to investigate and hold public hearings reviewing the City of Philadelphia’s recent Request for Proposal seeking a single law firm to provide legal representation to all indigent clients when a conflict of interest requires appointment of outside counsel.

WHEREAS, The right to counsel is a fundamental procedural safeguard guaranteed under the Bill of Rights to all persons accused of a crime who are unable to afford a lawyer; and

WHEREAS, In the landmark case *Gideon v. Wainwright*, the U.S. Supreme Court recognized the fundamental role that legal representation plays in a fair criminal justice system; and

WHEREAS, In Philadelphia, The Defender’s Association provides free legal services to criminal and juvenile clients who are financially unable to obtain counsel; and

WHEREAS, In some cases the Defender’s Association of Philadelphia is precluded from providing that legal representation due to a conflict of interest. When this occurs, the Philadelphia Courts appoint private attorneys to represent the accused. These attorneys are referred to as “conflict counsel” or “court appointed counsel”; and

WHEREAS, The City spends approximately \$8 million to \$10 million yearly to fund the fees incurred by conflict counsel; and

WHEREAS, From July 1, 2010, through June 30, 2011, the Philadelphia Court of Common Pleas made in excess of 22,000 conflict counsel appointments in Philadelphia's Family, Criminal, Municipal, Orphans, and Traffic Courts; and

WHEREAS, In November 2012, the Philadelphia Mayor’s Office, intending to assume this appointment power from the Courts, posted a Request For Proposal (“RFP”) seeking

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a private entity to provide legal representation to indigent clients when the Defender's Association is prohibited from providing representation due to a conflict of interest; and

WHEREAS, The Mayor's RFP states, "It is anticipated that the initial term of the Contract shall... expire up to twelve months thereafter...The City may, at its sole option, amend the Contract to add up to three (3) additional successive one-year terms..."; and

WHEREAS, According to many local experienced criminal defense attorneys and prosecutors, it frequently takes more than one year for a case, especially a serious and complex case, to move through the criminal justice system; and

WHEREAS, Any law firm hired under the terms of the Mayor's RFP will oftentimes require more than a year to provide effective assistance of counsel to the thousands of indigent clients that annually progress through the criminal justice system; and

WHEREAS, Switching from one defense attorney to another after one year while criminal or family court matters are still pending will slow the process, impede the level of legal representation, and cause legal fees to rise; and

WHEREAS, The Mayor's RFP appears to arbitrarily limit the term of the contract between the City and a private for-profit law firm to less than one year, which could deprive some clients of their fundamental and constitutionally guaranteed right to the effective assistance of counsel, and unnecessarily add significant contractual cost increases to the City; and

THEREFORE BE IT RESOLVED, BY THE COUNCIL OF THE CITY OF PHILADELPHIA, That the Committee on Law and Government is authorized to hold hearings to investigate the effectiveness of the existing system of appointing conflict counsel, the terms of the City's RFP, the efficacy of the selection process, the contract terms management and length; and

FURTHER RESOLVED, BY THE COUNCIL OF THE CITY OF PHILADELPHIA, That the Committee on Law and Government is also authorized to hold hearings to investigate the chosen entity, the new system of services, the resources required to put a new system in place, the caseload, workload and performance standards that will be utilized, attorney supervision protocols, as well as mitigation specialist, expert witness funding, and the overall quality of representation provided to indigent defendants in Philadelphia; and

FURTHER RESOLVED, BY THE COUNCIL OF THE CITY OF PHILADELPHIA, That the Committee on Law and Government is authorized to hold hearings to evaluate the funding allocated to the representation of indigent defendants in Philadelphia; and

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FURTHER RESOLVED, BY THE COUNCIL OF THE CITY OF PHILADELPHIA, That in furtherance of such an investigation, this Council is hereby authorized to issue subpoenas as may be necessary or appropriate to compel the attendance of witnesses and the production of documents to the full extent authorized under Section 2-401 of the Philadelphia Home Rule Charter.

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CERTIFICATION: This is a true and correct copy of the original Resolution, Adopted by the Council of the City of Philadelphia on the twelfth of September, 2013.

Darrell L. Clarke
PRESIDENT OF THE COUNCIL

Michael A. Decker
CHIEF CLERK OF THE COUNCIL

Introduced by: Councilmembers O'Brien and Greenlee

Sponsored by: Councilmembers Kenney and Bass