



## SEATTLE CITY ATTORNEY'S OFFICE

**Peter S. Holmes, City Attorney**

# E-NEWSLETTER

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### **Holmes taps three firms as outside legal counsel for SPD**

City Attorney Pete Holmes has selected [Christie Law Group PLLC](#), [Freimund Jackson Tardif LLP](#) and [Stafford Frey Cooper](#) to represent the City and its Police Department against a range of allegations, including wrongful arrest and death, excessive use of force, police misconduct and violations of federal civil rights, in cases the City Attorney's Office cannot handle due to conflicts or capacity issues.

The City's exclusive and long-standing annual contract with Stafford Frey Cooper expired at the end of 2010. Going forward, police officers will be represented by torts attorneys in Holmes' office and these three outside firms as circumstances require.

Robert L. Christie, the lead partner at Christie Law Group ([www.ChristieLawGroup.com](http://www.ChristieLawGroup.com)), is in his 31st year as a trial lawyer with emphasis on defending police officers and their departments in civil litigation arising from police action. He has defended hundreds of individual officers and scores of police departments throughout Washington in state and federal courts.

As lead attorney for his firm's proposal, Gregory Jackson ([www.fjtlaw.com](http://www.fjtlaw.com)) has extensive experience working with SPD as a former City attorney prosecuting misdemeanors in Seattle Municipal Court and as a former King County senior deputy prosecuting attorney. Jackson also represented law enforcement officers and their governmental agencies.

Stafford Frey Cooper ([www.StaffordFrey.com](http://www.StaffordFrey.com)) has represented City of Seattle officers and the City in police action work for more than 40 years. Ted Buck, lead attorney for Stafford Frey Cooper on City work, has represented police officers throughout the region for 20 years.

Besides general police action work, the Christie Law Group and Stafford Frey Cooper were tapped to be on-scene responders to requests for legal assistance from officers involved in shootings and to represent them at inquests.

Holmes assembled an experienced and diverse panel to consider the written proposals. After discussion, review, comparison with the criteria and consensus approval, the panel invited several firms back to participate in oral presentations. Panel members included high-level CAO staff and outside experts, including Nicholas Metz, deputy chief at SPD; Bruce Hori, the City's risk manager; George Mattson, retired King County Superior Court judge; John Strait, ethics professor at Seattle University Law School, and Anne Levinson, retired Municipal Court judge and the current auditor of SPD's Office of Professional Accountability.

"I was particularly pleased to see the emphasis on quality representation and sensitivity to the interests of the City and the individual officers in assuring that outside law firms

selected will be fine advocates for such cases," commented Strait, associate professor of law at Seattle University School of Law.

"Lawsuits involving police agencies and police officers often involve issues of great public concern and the potential for significant taxpayer costs," Levinson said. "In seeking proposals for this work and adding in-house counsel, the City Attorney found an effective way to better serve the public, the officers and the City, as well as provide more ongoing policy and legal advice to the Police Department."

The austere budget climate motivated Holmes to attract more outside practitioners to represent SPD in civil cases. The City can realize substantial savings through a competitive process and CAO's lower internal costs. Holmes said, "It's a tough time budget-wise. Savings on legal fees translate to more officers on the street. There's a direct connection."

Equally important, the City will be able to play a more supportive role in policy – by having a closer working relationship with the individual officers.

Aside from the need to pare costs, Holmes noted he has been concerned over the prior lack of a competitive process in selecting and retaining legal counsel.

Holmes' move was supported by the City Council, which agreed during last year's budget deliberations to add funding for two torts lawyers plus a paralegal and legal assistant.

Holmes continually kept the Seattle Police Officer's Guild (SPOG) and the Seattle Police Management Association (SPMA) informed of his decisions and the procedures. An unfair labor practice complaint from SPOG is pending. In a letter to SPOG in 2010, Holmes wrote, "the selection of counsel for city employees is a decision vested within the discretion of the City Attorney, and is not subject to collective bargaining."

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## **State bar recognizes Criminal Division Chief for professionalism**

Craig A. Sims was presented the Professionalism Award at the 2011 WSBA Annual Awards Dinner in September at Olive 8 in Seattle. Accompanying Craig to the podium

was his father, who appeared even more delighted about the award than Craig and his CAO colleagues in attendance. Congratulations to Craig!

This honor is awarded to a member of the bar who exemplifies the spirit of professionalism, defined as “the pursuit of a learned profession in the spirit of service to the public and in the sharing of values with other members of the profession.”

In addition to his Criminal Division duties, Craig is an adjunct professor at Seattle University School of Law, where he teaches comprehensive pretrial advocacy, and is a visiting lecturer at the University of Washington School of Law. He is the 2010-11 president-elect of the SU Law Alumni Board.

Also, Craig is a member and past president of the Loren Miller Bar Association. He has served as a King County Bar Association trustee since 2009. He has also served on the WSBA Leadership Institute Advisory Board since 2009.

In 2010, Craig received the Faculty Member of the Year Award by SU School of Law’s Black Law Student Association. In 2008 he received the Urban League of Seattle Spirit Award and was named Mock Trial Coach of the Year by the SU School of Law’s Black Law Student Association.



Criminal Division Chief Craig Sims, at far left, talked with students from Tyree Scott Freedom School about Seattle Municipal Court operations.

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## Seattle, King County OK jail contract

The City currently contracts with King County to house its misdemeanor inmates in the County’s jail facilities. Legislation approved by the City Council and the King County Council will replace the existing contract for jail services with a new contract that will run from Jan. 1, 2012 through Dec. 31, 2030. The current contract, entered into in 2002

and originally set to expire at the end of 2012, was extended through 2016 to provide the City with sufficient time to evaluate its alternatives. After evaluating its options, which included possible contracts with Yakima County, Snohomish County, the South Correctional Entity (SCORE), and even building its own jail, the City chose to remain with King County under a new, renegotiated contract.

The new contract represents a long-term, durable partnership between Seattle and King County. It provides certainty by guaranteeing the City access to jail beds at King County through 2030. Starting in 2012, King County will guarantee the City access to 228 jail beds. This guaranteed number of jail beds will gradually increase over the term of the contract to 335 jail beds by 2030. The increase is consistent with growth in the City's projected jail population. The jail bed guarantee also is the maximum number of beds (or cap) that the County is obligated to provide. If the County has space available, it may provide a greater number of beds, but it is under no obligation to do so.

As part of this new contract, the City has agreed to pay for a minimum number of beds each year. In 2012, the City has committed to paying for a minimum of 175 jail beds. In 2017, after the City's contract with Snohomish County ends, this guarantee will increase to 233 beds. This minimum bed commitment (or floor) will gradually increase over the term of the contract to 258 beds by 2030.

- The City can reduce the minimum floor if it gives 18 months notice and notice occurs prior to notification of capital expansion by the County. If the City reduces the minimum floor, the number of beds the County is required to provide (or the cap) also will decrease. The cap is set to be 30% higher than the floor.
- If the City is sending 100% of its inmates to King County, it can reduce its minimum bed commitment for the following year if it gives notice by July 1.

The new contract also sets the basis for reasonable and predictable fees for services. The most significant change from the current contract is a decrease in the booking fee from \$329 to \$95. This change will save the City more than \$2 million annually. In future years, fees will increase by CPI plus a 1.5% surcharge for general housing and by CPI plus a 3% surcharge for medical and psychiatric services. There will be rate resets every 5 years, where the rates will be based upon the prior year's adopted budget. There also will be a rate reset if CPI exceeds 8%.

If King County needs to expand its facilities in order to have enough capacity to house all the inmates, the City will help pay for a portion of the capital expansion costs.

- The total planning and capital cost cannot exceed \$66 million in 2011 dollars (adjusted for inflation). A portion of this total cost would be allocated to the City.
- The City's share of the total capital cost will be based upon its percentage share of the total jail population (currently about 10% to 12%).
- Payment would start when the County's debt service payments start or when the expansion becomes operational (whichever occurs first).
- The estimated City annual surcharge would be approximately \$640,000, plus inflation, per year.

This long-term contract will mean that King County will continue to be the City's primary provider of jail bed space for the City's misdemeanor inmates for the next two decades. Because the King County Jail is located adjacent to the City's Municipal Justice Center, the proposed contract would maintain significant operational advantages for Seattle's courts, law enforcement and attorneys. For the County, the proposed contract will provide for predictable use of its jail space, leading to greater operational efficiency.

The new contract also reflects the long-standing interest of the City and the County in a wide variety of diversion, alternative and re-entry programs. These programs ensure efficient use of public funds by safely keeping low-risk populations out of jail so that capacity is available for those who pose a more serious risk to public safety.

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## **City Council removes permit requirement for church-run homeless encampments**

This fall the City Council passed an ordinance that permits religious organizations that own or control property in the City to host a homeless encampment without obtaining City permits as long as they comply with basic health and safety standards.

Although churches have previously hosted encampments on church parking lots, the new ordinance, consistent with state law, permits encampments on parking lots and other church-owned property.

Previously, churches were required to obtain a temporary use permit in order to allow a church to host an encampment for up to six months. Private property owners will still be required to obtain a temporary use permit if they wish to host an encampment.

Under a previously entered consent decree set to expire in March 2012, hosts are not required to obtain a temporary use permit to host Tent City 3. The consent decree allows Share/WHEEL, which operates Tent City 3, to operate only one encampment within the City and requires the encampment not operate for longer than three months in a location. Under the ordinance religious organizations may now host an encampment without a permit for as long as they desire.

The ordinance limits the number of encampment in habitants to 100 individuals, provides for fire and health standards, requires inspections before the encampment is established, and provides for inspections while the encampment is operating.

Private property owners will still need to comply with any permit requirements and applicable environmental review.

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## **Court upholds SMC's authority to levy fines above \$75,000**



City inspectors cited a substandard interior wall in a Sisley house (left) and hazardous exposed wiring (right).

The imposition of \$615,000 in penalties on a Seattle landlord for housing code violations has been affirmed by the Washington Court of Appeals, Division One.

The central question in the appeal by Hugh and Martha Sisley was whether judges in two separate trials in Seattle Municipal Court (SMC) properly levied penalties exceeding \$75,000, which is the limit for civil claims in Washington's district courts. A King

County Superior Court judge found no issue with the nature of the housing code violations but said SMC could not impose fees over \$75,000.

“The City has the right to enforce its ordinance,” the three-judge appeals panel ruled unanimously. “To superimpose the district court jurisdiction limit upon municipal code enforcement proceedings is to frustrate the City’s enforcement scheme and improperly undermine the power granted to the City by the legislature.”

The ruling applies to a wide variety of civil violations of City code, including those brought by the Department of Planning and Development, Department of Transportation and Seattle Public Utilities.

Karen White, DPD Code Compliance Director, applauded the ruling as “very important to the City’s ability to enforce its codes. When someone won’t correct code violations repeatedly, having the ability to collect large enough monetary penalties is essential. Without this tool, there is no deterrence to continuing to violate city laws, no consequence for failing to cure conditions that can threaten someone’s health or safety or that can bring down a whole neighborhood.”

White was echoed by City Attorney Pete Holmes: “The appellate court’s decision reinforces the City’s ability to make it more expensive to be a slumlord than to comply with the Seattle Municipal Code. This is a victory for good government and for Seattle’s neighborhoods.”

DPD has amassed close to 200 code enforcement cases relating to Sisley properties dating to the 1980s. The cases included housing code violations, exterior maintenance and junk storage violations, emergency orders, and unfit vacant buildings subject to demolition. More than 25 cases against Hugh Sisley have been filed in Municipal Court to gain compliance with City codes.

Under City code, the maximum penalties that can be assessed for housing violations are \$150 per day for violations in the unit for the first 10 days, and \$500 per day thereafter. For violations in the common areas, the penalty is \$150 per day for the first 10 days, and \$500 per day thereafter.

The two Sisley properties at issue are at 6515 16th Ave. NE and 6317 15th Ave. E. They are single-family homes that had been cut up and rented as guest rooms.



At the 16<sup>th</sup> Ave. location, according to court testimony, a young man agreed to rent a room in the house (the tenants shared the common areas including the bathroom and the kitchen). He paid a \$500 security deposit and agreed to pay \$500 per month rent. After about three months, the tenant complained of a severe ant infestation in his bedroom. The manager refused to have the room exterminated. The tenant contacted DPD for assistance, which resulted in an inspection of the tenant's room and the common areas. During the inspection 16 other housing code violations were observed (including deteriorated stairs, missing handrails, lack of a permanent heat source, missing smoke detectors and broken wall coverings). The ant infestation made the room unlivable and the tenant was forced to move in with friends. The tenant asked for the return of his \$500 security deposit, but was refused.

The Sisleys were issued a Notice of Violation and ordered to correct the violations by April 10, 2008. Under the code, penalties continue to accrue until the violator allows a reinspection to confirm compliance. The Sisleys refused to allow a reinspection of the property. At the time of trial the property was out of compliance for 406 days. Municipal Court Judge Jean Rietschel, now a King County Superior Court judge, assessed a penalty in an amount less than the maximum. She ordered the Sisleys pay: \*\$100 per day for violations in the unit the first 10 days, and \$300 per day thereafter and \*\$100 per day for violations in the common areas the first 10 days, and \$300 per day thereafter The judgment was for \$247,400.

At the other property -- 6317 15th Ave. E. -- a young man entered into a rental agreement and paid \$1,000 for first and last month's rent to rent one of four bedrooms at the home. The bedroom was supposed to have a functioning toilet/shower in the room. He was to share the common areas with the other tenants in the house. Before moving his belongings into the house, the tenant discovered that six of eight windows in his room were broken (some were boarded up) and there was a hole in the wall stuffed with newspaper to cover electrical wiring. The tenant asked that repairs be made or his \$1,000 be returned. The Sisleys' manager refused to return any portion of the money paid. The tenant called DPD for assistance ; the inspectors found 26 housing code violations (including a non-functioning toilet and shower in the tenant's room, holes in the front door, exposed electrical wiring, broken and peeling wall and ceiling covers, broken and boarded up windows, and an electrical cord taped to an outlet in the hallway providing power to a bedroom).

DPD issued a Notice of Violation in the bedroom unit and the common areas, requiring compliance by Aug. 7, 2008. The Sisleys again refused to allow a reinspection to confirm compliance. At the time of trial the property had been out of compliance for 375 days. The Court determined that there were no mitigating factors and imposed the maximum penalty and issued a judgment in the amount of \$368,000.

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## **Drug policy reform is Holmes' topic away from Seattle**

Seattle is among several U.S. cities at the forefront of drug policy reform and, this fall, City Attorney Pete Holmes chronicled the City's progress and pitfalls at two major conferences.

At the annual meeting of the Washington State Association of Municipal Attorneys in October, Holmes' address segued from his decision to stop prosecuting simple possession of marijuana when he took office in January 2010 to the City's efforts to reform medical marijuana laws statewide.

After Gov. Chris Gregoire vetoed an act that would have created a statewide regulatory framework – 11 years after voters approved medical marijuana – the City Council endorsed legislation written by the CAO to deal with medical marijuana operations within Seattle City limits. [C.B. 117229](#) was crafted to respond to multiple stakeholders' concerns that medical use of cannabis be conducted safely and fairly for the health and welfare of the community. The ordinance specifies that problems at medical cannabis facilities should be reported to the Customer Service Bureau, the Seattle Police Department, or the Department of Planning and Development, depending upon the nature of the problem.

As of fall 2011, Holmes told the WSAMA audience, roughly two-thirds of the openly advertising dispensaries have obtained City business licenses, a requirement under the ordinance.

While acknowledging the federal prohibition of medical marijuana, Holmes explained that the "Seattle Way" responds to changes in state law in a responsible manner to minimize impacts on patients, providers and the health, safety and welfare of the community.

Holmes carried that message to Los Angeles earlier this month when he attended the International Drug Policy Reform Conference hosted by the national Drug Policy Alliance. He spoke on a panel that contrasted Washington and Colorado's marijuana legalization ballot initiatives as well as their potential effects on medical marijuana laws.

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## **City Inside/Out: Seattle Veterans Court 11/18/2011**

Seattle Channel looks at an innovative new approach to helping Seattle veterans who get into legal trouble. Seattle Veterans Court offers a therapeutic approach for defendants who qualify, but does it work? Meet two Seattle men who fought for the U.S. but then fell into addiction and homelessness when they returned. Veterans Court offers them another chance, but can they stick to their rigid probation terms? We also hear from Presiding Judge Fred Bonner, Prosecutor Jennifer Grant, Defender Burns Petersen and U.S. Dept. of Veterans Affairs' Veterans Justice Outreach Coordinator Kevin Devine about how they are helping local veterans access community services while re-integrating into civilian life. <http://www.seattlechannel.org/videos/video.asp?ID=3061133>

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## **LINKS TO NEWS STORIES**

### **Jury clears officers in dispute over loud party**

[http://seattletimes.nwsourc.com/html/localnews/2016627363\\_weedbrothers28m.html](http://seattletimes.nwsourc.com/html/localnews/2016627363_weedbrothers28m.html)

### **City Attorney Pete Holmes, Who Is Prosecuting Occupy Seattle Protesters, Is at the Occupy Seattle Protests**

<http://slog.thestranger.com/slog/archives/2011/10/08/city-attorney-pete-holmes-who-is-prosecuting-occupy-seattle-protesters-is-at-the-occupy-seattle-protests>

### **Anti-gun activists honor former Assistant U.S. Attorney Tom Wales**

<http://www.q13fox.com/news/kcpq-antigun-activists-honor-former-assistant-us-attorney-tom-wales-20111009,0,4826077.story>

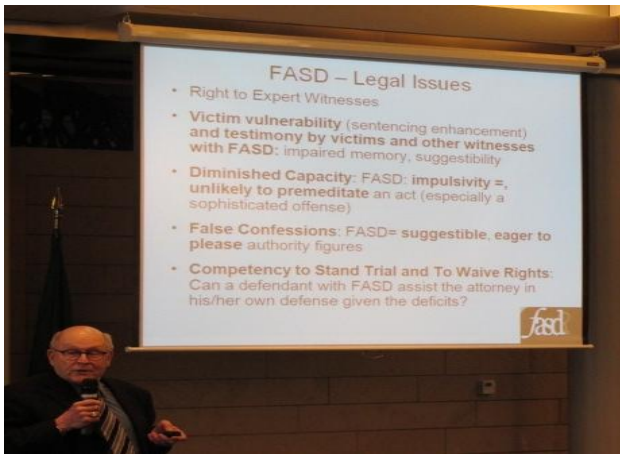
### **Seattle program aims to break the habit of incarceration**

[http://seattletimes.nwsourc.com/html/localnews/2016486501\\_diversion13m.html](http://seattletimes.nwsourc.com/html/localnews/2016486501_diversion13m.html)

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In October Pete Holmes spoke at the launch of LEAD, a new program aimed at reducing drug crime in Belltown by offering low-level offenders a ride to treatment instead of jail.



Last month CAO invited experts on FASD (Fetal Alcohol Spectrum Disorder) to teach prosecutors, public defenders, probation officers and other court personnel about the birth defect's impact on individuals and how they interact with the criminal justice system. Retired King County Superior Court Judge Anthony Wartnick, shown at left, addressed multiple legal issues and court rulings in defendants diagnosed with FASD.



Seattle's new ordinance on medical marijuana dispensaries was the topic of a conversation with Clear Channel's Street Beat host, Tony Benton, that aired on KUBE 93. Also on the panel was, left, John Davis, proprietor of the Northwest Patient Resource Centers.



One of the first veterans in Seattle Municipal Court's Veteran Treatment Court appeared Sept. 20 before Presiding Judge Fred Bonner. Supervising Attorney Jennifer Grant represents CAO's Criminal Division in the therapeutic court, the first such court in King County.

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The Seattle City Attorney's Office is committed to providing the City of Seattle with the highest caliber legal advice to help protect the health, safety, welfare, and civil rights of all.

With more than 90 lawyers, the City's Law Department is one of the largest law offices in Seattle and is the third largest public law office in the state.

The City Attorney's Office is made up of three divisions:

**The Civil Division** represents the City in lawsuits and advises City officials as they develop programs, projects, policies, and legislation. The sections within the Civil Division include torts (claims), governmental affairs, land use, environmental protection, labor and employment, and contracts/utilities.

**The Criminal Division** represents the City in prosecuting traffic infractions, misdemeanors, and gross misdemeanors in Seattle Municipal Court. The types of cases prosecuted by the Criminal Division include driving under the influence, traffic infractions, domestic violence, theft, assault, and trespassing.

**The Administration Division** staff provide budgeting, accounting, human resource, clerical and information technology services for the City Attorney's Office.

**Civil and Administration Division**

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