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The Honorable Board of Supervisors
County of Los Angeles
383 Kenneth Hahn Hall of Administration
500 West Temple Street
Los Angeles, California 90012

Honorable Members of the Los Angeles County Board of Supervisors:

We, the undersigned, are writing to share our views on an issue of great importance to us and the criminal justice system in Los Angeles County. Specifically, the fundamental qualifications needed to serve in the position of Chief Public Defender.

We are a group of attorneys who practice (or have practiced) criminal defense in Los Angeles County. Many of us are former Los Angeles County Public Defenders or Federal Public Defenders for the Central District of California. Many were in management positions and dealt with supervising line deputies, investigators, and clients, and budget and policy issues. Some of us are now in academia, most of us are current practitioners. All of us have worked side-by-side with public defenders and public defender clients for many years. We have significant experience in representing clients in the criminal justice system—the indigent and non-indigent—and effectively working with many other criminal justice constituencies, including judges, prosecutors, law enforcement and probation officers, and correctional officials.

We jointly urge the Board to modify the description of qualification for the position of Chief Public Defender to include the requirement that we believe is most critical for the position: significant criminal defense experience. Ideally, this would include public defense experience in a supervisory capacity. The invaluable and unique knowledge and insights gained through criminal defense practice generally, and public defense practice specifically, are absolutely necessary to the posted position. There is no reasonable substitute for experience in this field of work: it is wholly unique to the practice and administration of law. Outstanding attributes in other areas cannot fill the void created by the absence of such skills. Moreover, the desirability of the position, and the large pool of potentially worthy candidates with prior criminal defense experience, mean that it will be filled by a fully qualified lawyer with such abilities.

Criminal defense experience is essential to the position because of the extraordinary challenges distinct to public defense. These include effectively serving a large and diverse population of clients, excelling at providing superior representation both efficiently and effectively, and having a heightened degree of sensitivity to the needs of challenged clients (including persons with behavioral, substance abuse and/or mental health issues, who may have a high degree of mistrust of counsel, who may have suffered from abuse and/or neglect, and who present a range of other conditions that are prevalent among the indigent client populations served by the Public Defender). Many PD clients are homeless, come from impoverished backgrounds, lack education, and are immigrants. It is incumbent that the Chief Public Defender has the sensitivity, case management and interpersonal skills necessary to effectively advocate for the indigent populace. It requires someone who appreciates and understands the societal and systemic problems public defenders experience on a daily basis, so that he or she can develop policies and manage personnel to achieve the mission of zealous advocacy on behalf of indigent defendants.

In addition, criminal defense experience is essential in the Chief Public Defender because she or he is often the guidepost for less experienced attorneys to learn from, to provide effective representation to a large number of clients, while effectively allocating scarce resources. Deputy Public Defenders and staff members should look upon their leader with respect, as a role model, and know that they are being led by someone who has passionately represented criminal defendants, with a

demonstrated history of devotion to the criminal defense function, including a proven commitment to vindicating the rights of the indigent accused. A leader without such qualifications is simply an administrator.

Finally, the Chief Public Defender needs that substantial criminal defense experience to have credibility when discussing difficult policy-level decisions with the Board of Supervisors, judiciary and the various heads of agencies in the criminal justice system, such as the District Attorney's Office, Probation Department, Department of Corrections, LAPD and County Sheriff. The policy decisions of these various entities and agencies can affect countless cases and clients for many years.

Attached please find a Summary Position Description for the Public Defender position, which we have edited to show the modest revisions we are urging the Board to make. We are fully confident the Board will find a superlative candidate for the position and believe our recommendations for modifying this job description will contribute greatly towards the Board achieving that goal. Thank you for considering our views on this important issue.

Respectfully submitted,

Kaye, McLane, Bednarski & Litt, LLP

By 

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And All On Attached Signatory List

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SUMMARY POSITION DESCRIPTION

PUBLIC DEFENDER

COUNTY OF LOS ANGELES

The Setting

Los Angeles County serves a larger and arguably more diverse resident population than any other county in America. Covering a land area as large as Rhode Island and Delaware combined, its 10.2 million residents exceed the number in each of 42 States. Eighty-eight cities are within its borders, and an additional one million people occupy unincorporated areas under direct County administration. Containing 27% of the total population of the nation's largest State, its annual Gross Domestic Product of well over \$500 billion would rank it 19th in the world if it were a country, and 95 languages are spoken by students in its public schools. As with many other national obligations, it is impossible to deliver on the nation's constitutional guarantees of just and humane treatment of its disadvantaged residents unless its largest county plays a leadership role.

The County has a long history of such leadership. While it is a center of great prosperity, it is also home to many thousands who suffer from poverty and related problems. County government is the leading provider of a wide range of services to the indigent, including the homelessness initiative, whole person care, diversion and re-entry and immigration affairs. A critical milestone was achieved in the criminal justice area in 1913 when the County established the nation's first position of Public Defender, assuring free counsel to those without the ability to pay. This action became a model for many other jurisdictions, both elsewhere in California and across the country. It was frequently cited by counsel to courts ruling on the representational rights of indigent defendants which needed to be shown proven ways that governments could protect these rights. Again and again it was argued that if a jurisdiction of the size, diversity and general complexity of Los Angeles County could meet this challenge, it was a reasonable State and national standard to set for others. This argument contributed significantly to the spread of such positions and supporting staffs throughout the nation.

The County has consistently met its leadership obligations in this area while maintaining the employment policies and principles which have caused *Forbes Magazine* to rank it among America's Best Employers for 2015 and 2016. The largest employer in southern California, it is committed to engaging and retaining top-quality talent in more than 35 agencies and other units where its 110,000 employees work. Those who join its workforce become part of a general culture of professional excellence and humane employee relations.

The Opportunity

The Public Defender heads a staff of more than 1,100, including more than 700 lawyers, who are dedicated to defending the liberty interests of their clients, protecting their rights and advocating for their access to the other public services and resources they need to be productive members of the

community. S/he is appointed by the Board of Supervisors, whose five members are elected on a non-partisan basis and vested with all executive, legislative, and quasi-judicial authorities and accountabilities except those of an elected Sheriff, District Attorney, and Assessor. The Public Defender is charged with mounting the most rigorous and relentless defense of the indigent client's rights and interests that can be presented within the applicable law, and also for assisting him or her in the pre- and post-trial phases of the case with respect to access to other available public and charitable services. At the same time, the Public Defender is responsible for playing a leadership role in policy issues of a more general nature – e.g., bail reform, juvenile justice, Proposition 47 initiatives including sentence reduction – and for advising the Board as it determines which of these issues to address and what potential actions to consider.

So long as these dual functions are strictly separated in the Public Defender's mind and actions, the policy advisory role is entirely compatible with mounting aggressive defenses in individual cases even when prosecutions arise from the actions of a County employee or agency. The Public Defender and his/her staff have a body of experience and expertise, as well as a singular perspective, which the Board wants and needs to take into account as it shapes and reshapes County policy. This "big picture" element of the Public Defender's job detracts in no way from his/her parallel duty to protect the rights and advance the interests of the indigent client. It simply adds another dimension which could affect the ability of the entire system to perform that duty more effectively. This opportunity to both champion the cause of indigent defendants and influence the policies and practices of America's largest local jurisdiction adds up to the premier national leadership position of its kind.

The Public Defender also plays a critical collaborative role with leaders and staff of County social service, health and law enforcement agencies, as well as community-based partners, to develop and execute holistic strategies which address the non-legal aspects of the client's needs and situation. The Office has initiated strategic collaborations with stakeholders in the adult and juvenile justice systems at the State, national and local levels, culminating in practical service and advocacy improvements which have received award-winning recognition.

Supported by an annual budget which is currently \$217 million, the Office of the Public Defender (PD) advocates work out of 38 locations across the County, representing clients in County Superior Courts as well as State and Federal Appellate Courts. Promoting a team-based approach to helping clients whose representational options may otherwise be limited, the Public Defender's Office also assists in felony and misdemeanor proceedings for youth in Juvenile Court proceedings and in Mental Health Court proceedings for adults and youth.

Responsibilities of the Appointee

The Public Defender formulates the policy of his/her Department, directs its execution, and evaluates performance and the results achieved. In addition to directing the representation provided, s/he directs the determination of eligibility to qualify for PD services. S/he is also responsible for directing the fiscal, personnel, budget and other administrative functions of the Department. In this connection, s/he makes necessary changes in organization, staffing, work processing and management information systems to increase effectiveness and efficiency. S/he makes periodic reports to the Board of Supervisors regarding the progress and accomplishments of the Department, together with problems encountered and remedies recommended where they involve actions outside the Department.

As part of his/her more general policy advisory role, the Public Defender gives careful attention to developments, issues and innovations in his/her field and recommends the adoption, enactment and/or amendment of County Ordinances and State and Federal statutes as s/he believes are necessary to serve the just and effective functioning of the criminal justice system in general and the Department in particular. S/he confers with judges, the District Attorney and others on many such matters, and advises the Board of Supervisors on policy issues to which his/her experience, expertise, and perspective are relevant.

S/he is both proactive and responsive in forming partnerships and other collaborative relationships with the heads and staffs of social service agencies and private entities which can provide various forms of assistance to PD clients. These efforts reflect recognition that the PD functions frequently don't end when the client steps out of the courthouse door. The Public Defender is also the ultimate public face of the Department and generally responsible for its public and professional relations.

Of equal importance to his/her other core functions the Public Defender builds an effective leadership team which develops a human resources plan that ensures equal opportunity-based hiring and promotion policies, and oversees management of a recruitment system that attracts, develops and retains excellent practitioners. The plan must also include a training program for all staff. Also needed is an IT strategic plan that advances information technology in the Department with case management and other systems which bring about digital transformation of the Department's operations.

Qualifications

The capacity most needed in the Public Defender is the ability to ~~lead and manage a Department~~ comprised of advocates and supporting staff passionately dedicated to excellent representation of the indigent while also contributing to the quality of policies and practices of the broader County criminal justice and social service systems. This requires leadership qualities of a very high order, as well as analytic and option-posing capabilities suited to the role of expert advisor to five elected officials, each of whom represents a constituency of more than two million people.

More specifically, the Public Defender should have as many as possible of the following characteristics and capacities, ~~in addition to the preceding,~~

- o Deep dedication to individualized justice for diverse populations and a clearly demonstrated personal commitment to social justice as a broader cause.
- o Excellence as a lawyer, along with extensive experience in a leadership role in one or more sizeable legal service organizations, preferably in a public defender's office, a legal aid provider, a public interest advocacy organization, or an extensive pro bono practice, all preferably in complex urban settings. Direct, high-quality criminal trial experience is much preferred. State law requires that the public defender "has been a practicing attorney in all of the courts of the state for at least the year preceding the date of his election or appointment." (This section is interpreted to mean a licensed member of the California Bar.)
- o The vision, strategic thinking capability, creativity and capacity to assemble and direct a leadership team with the skills necessary to oversee all facets of departmental policies and

operations, and to respond to Board requests for assessments and analyses of all of the relevant issues as well as relevant aspects of County policy and operations.

- Advanced and demonstrated personal managerial and administrative ability, or the capacity to hire and effectively oversee senior management specialists who can diagnose management and fiscal problems, focus intensively on solutions, use or build the technological and other capabilities necessary to address them with state-of-the art methods and tools, and carry corrective actions through to successful conclusion.
- Rock solid personal and professional integrity and honesty in presenting facts, figures, conclusions and recommendations, as demonstrated throughout his/her career.
- High energy and advanced communication, presentational and other interpersonal skills, together with acute cultural sensitivities, steady calmness in crises, and deep familiarity with the issues and challenges that face indigent persons and families in large, culturally diverse urban areas.
- Successful experience at working in or with a complex legal and governance environment, exhibiting the discipline, perseverance, listening capacity, resilience and savvy regarding political and organizational dynamics which are necessary to build and maintain forward progress amid shifting currents of staff and stakeholder opinions and priorities.
- A fine eye for superior talent, coupled with the ability to assemble and motivate a strong, independent-minded and diverse staff, and to hold its members to high standards of accountability.
- Recognized professional stature in one or more than one public defender-relevant legal sub-specialty.
- Sufficient understanding of the relevant public policy issues and the policy making process to be a credible commentator and advisor as well as an effective formulator and advocate of recommended changes in County, State or Federal policy.
- Demonstrated problem solving capacity and receptivity to promising new approaches, skill at programmatic entrepreneurship, and recognition of the enhanced impact which can often be achieved by leaving it to others to take most or all of the credit for successes.
- An exceptionally keen intellect, together with the self-knowledge, personal security and ego control necessary to deal and collaborate effectively with strong institutions and personalities, to complement him/herself with very able co-workers, and to identify his/her personal success with the success of the organization.
- U.S. citizenship is required, along with willingness to locate in the Los Angeles area.

Eligibility for Appointment

The County is an Active Equal Employment Opportunity Employer and engages employees without regard to race, color, religion, creed, age, gender, marital status, sexual orientation or any protected characteristics. All U.S. citizens who believe they meet the stated qualifications are invited to apply.

Compensation Package

The appointee will receive a base annual salary in the range of \$286,899 to \$434,245, commensurate with qualifications, as well as an excellent program of benefits.

Timing of Appointment

Initial consideration of candidates will begin in early May, 2018. The appointee will be selected as soon thereafter as possible, and will take office at the earliest feasible date.

To apply or for further information, please contact:

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