

BOARD OF COUNTY COMMISSIONERS
SARPY COUNTY, NEBRASKA
RESOLUTION SETTING SALARY OF ELECTED OFFICIALS
PUBLIC DEFENDER TO BE ELECTED IN 2012

Whereas, pursuant to Neb. Rev. Stat §23-1114.07 (Reissue 2007), "The salaries of all elected officers of the County shall be fixed by the County Board prior to January 15 of the year in which a general election will be held for the respective office,"; and,

WHEREAS, an election for the Office of Public Defender shall be held as part of the 2012 General Elections, and those elected during the 2012 General Election shall take office in January of 2013;

NOW, THEREFORE, BE IT RESOLVED BY THE SARPY COUNTY BOARD OF COMMISSIONERS as follows:

- I. The annual salary for the Elected Office of Public Defender, for the term commencing January 1, 2013, shall be \$ 119,000.
- II. The Board further finds that the salary of the Public Defender shall be increased for each year thereafter as follows: the salary for the subject year shall be equal in amount to the salary for the immediately preceding year plus an increase equal to the annual percentage increase in the Midwest Region consumer Price Index, CPI-U, for the 12 month period ending on June 30 of the immediately preceding calendar year, as established by the Bureau of Labor Statistics, a department of the U.S. Department of Labor. Such increase, however, shall not be less than a two and one-half (2.5) percent increase and shall not exceed four and one-half (4.5) percent.
- III. Said salary shall be paid in twenty-six equal installments. This salary shall be per calendar year, January 1 through the next following December 31. If, for any reason, the Public Defender is unable to complete his or her term of office, the salary paid for the completed portion of the term shall be equal to the salary to be paid for the year divided by the time spent in office during that year.
- IV. The Board further finds that in addition to the salaries set forth above, the Public Defender shall be entitled to the following benefits:
Life insurance and long term disability insurance, group health insurance, and group dental insurance under the same terms and conditions as is offered to other

employees, as the same may be modified from time to time, at no cost to the Public Defender.

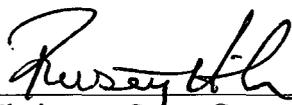
- V. Upon retirement, the Public Defender may, if eligible, continue to receive health insurance coverage provided under an existing Sarpy County Plan, as may be amended from time to time. In order to receive this coverage, the Public Defender must: 1) have served a minimum of sixteen (16) years as an employee of Sarpy County and be serving as a Public Defender at the time of retirement; and 2) be at least 55 years of age and not yet sixty-five (65) years of age; and, 3) be covered by the County's primary health insurance program prior to the time of retirement in order to receive health insurance coverage. The health insurance premium paid by the County for those qualifying is as follows: a) for those Elected Officials fifty-five (55) years of age through fifty-nine (59) years of age, the County will pay 75% of the monthly premium for single coverage and 50% of employee/spouse, employee/children or family coverage; or, b) for those Elected Officials at least sixty (60) years of age but not yet sixty-five year of age, the County shall pay the entire single coverage premium and fifty percent (50%) of the employee/spouse, employee/children or family coverage. Dental insurance coverage may be provided as allowed by federal law.

In the event a retired official is over the age of sixty-five (65) and no longer eligible for coverage in the preceding paragraph, but the spouse of said retiree has not yet reached the age of sixty-five (65), said spouse shall be eligible for coverage upon payment of fifty percent (50%) of the premium, until such time as the spouse reaches the age of sixty-five (65) or is no longer married to the retired elected official.

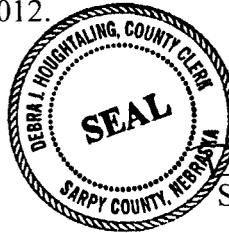
- VI. The Board finds and determines that the County reserves the right to enter into any program for the benefit of the Employees of the County, including, but not limited to, insurance programs and such other benefit programs as may be approved by this Board. The Public Defender who holds office at the time such program is adopted shall be entitled to participate in such programs on the effective date of such program. Such participation shall be under such terms and conditions as this Board may establish.

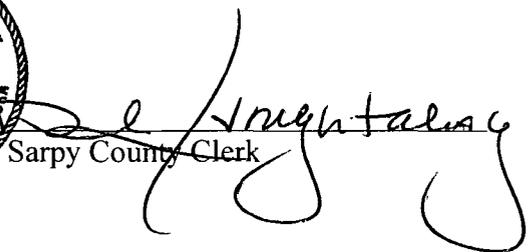
VII. It is the specific intent and finding of this Board, in support of the action set forth above, that the increases in salary, and/or benefits which may inure to the benefit of the Public Defender during his or her terms of office, shall not constitute an increase in salary which is prohibited by Article III, §19 of the Constitution of the State of Nebraska. Based on Nebraska Supreme Court cases, specifically *Shepoka v. Knopik*, 201 Neb. 780, 272 N.W.2d 365 (1978), “the constitutional prohibition relates to legislative change and does not prohibit changes based on independent factual standards.”

The above and foregoing Resolution was duly approved by a vote of the Sarpy County Board of Commissioners at a public meeting duly held in accordance with applicable law on this 10th day of January, 2012.



Chairman, Sarpy County Board





Sarpy County Clerk

SARPY COUNTY PUBLIC DEFENDER

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Papillion, Nebraska 68046

(402) 593-5933

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Thomas P. Strigenz, Public Defender
Patrick J. Boylan, Chief Deputy
Christopher J. Lathrop
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Tim Krajicek
John P. Hascall
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Mandy M. Gruhlkey

MEMO

To: Sarpy County Board
From: Thomas P. Strigenz, Sarpy County Public Defender
Re: Resolution Setting Public Defender Salary

As you are aware, due to the upcoming election for the Office of the Sarpy County Public Defender in November, 2012, pursuant to Nebraska Revised Statute §23-1114.04 (Reissue 1997), the Sarpy County Board is required to set the salary of the Sarpy County Public Defender prior to January 15, 2012.

Please take this letter as a request for the Sarpy County Board to set the salary of the Sarpy County Public Defender at \$121,540.81 commencing January 1, 2013. Said sum is equal to the salary the Sarpy County Attorney will be receiving as of that date.

It is my understanding that the Karen Buche, Sarpy County Human Resources Director, has recommended that the Sarpy County Public Defender Salary be set at \$116,006 commencing January 1, 2013.

The last time this issue was discussed, in 2007, I requested that the Public Defender be paid commensurate with the County Attorney. During the public hearing, the County Board made a comment (located at 10 min, 18 sec of the Public Defender Salary Discussion held on 12-11-2007 at the County Court Board Meeting) that there was a desire to close the difference between the salaries of the County Attorney and the Public Defender. Subsequent to that meeting, the salary of the Public Defender was set at 2.91% below the County Attorney.

I have enclosed with this letter, a spreadsheet which shows the historical salaries of the Public Defender and the County Attorney as well as the projected salaries based upon the Human Resources' recommendation. If the recommendation of the Human Resources Director is followed, the difference between the two salaries will be over 9%.

It is my position that the Sarpy County Public Defender should be paid equal to the Sarpy County Attorney due to the fact that our offices are generally similarly situated

in terms of caseload and types of cases. The only difference between the two offices is that the County Attorney prosecutes Child Support cases where the Public Defender does not. However, the Public Defender also files and defends all the Appeals whereas the County Attorney is relieved of that duty.

I have prepared a chart indicating the case load for my office.

Caseload of the Sarpy County Public Defender

	Case Load for Public Defender as of 12/9/11
Felony	504
Misdemeanor	1429
Juvenile	446
Motions to Revoke Probation	140
Board of Mental Health	98
Child Support	0
Appeals	10

The above chart only reflects the number of new cases appointed to the Sarpy County Public Defender's office during 2011. It does not reflect the open, active, on-going cases as of 1/1/11. As of 1/1/11, there were 804 open, active, on-going cases. Additionally, it does not reflect Motions to Review Dispositions filed by the Sarpy County Attorney in Board of Mental Health cases.

The Sarpy County Public Defender has an active caseload and actively engages in the full and complete representation of clients appointed to this office. This representation includes, but is not limited to, initial appearances in court with the client, the setting of bonds, meeting with clients, and the arguing of Motions in both County and District Court. Further, it includes the preparation and trying of all types of cases ranging from small misdemeanor cases to First Degree Murder for both bench and jury trials in County and District Courts. Lastly, the Head Public Defender files all appeals and is responsible for the filing and the writing of the briefs, as well as arguing the appeals to the Nebraska Court of Appeals and the Nebraska Supreme Court. Finally, the office is a source of information for attorneys and citizens who are seeking advice on a myriad of legal situations. It is usually the Sarpy County Public Defender who assists these individuals in resolving their issues or directing them in the right direction.

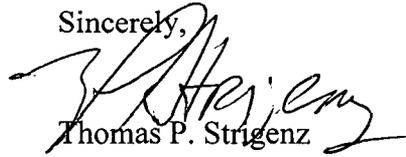
I believe I have set forth adequate reasons to justify the setting of the Sarpy County Public Defender's salary at \$121,540.00.

I have drafted two proposed Resolutions. The First Resolution specifically sets forth the amount of the Salary. The second resolution leaves a blank which can be filled in for the salary amount.

Both resolutions were drafted using the resolution which adopted the new Exempt Management Benefits Policy as a guide. Specifically, the resolutions keep the benefits the same as has been previously offered by the County as it seems the intent of this Board is maintain the status quo on benefits for those people hired before July 1, 2010.

I look forward in speaking with you at the Board Meeting on December 13 and if you have any questions, please feel free to contact me.

Sincerely,

A handwritten signature in black ink, appearing to read 'T. Strigenz', written over the printed name.

Thomas P. Strigenz
Sarpy County Public Defender

Enclosure

	Public Defender	County Attorney	Diff	% Diff
1/1/2005	\$82,000.00	\$89,402.30	-\$7,402.30	-8.28%
1/1/2006	\$84,870.00	\$92,531.38	-\$7,661.38	-8.28%
1/1/2007	\$87,840.45	\$99,586.00	-\$11,745.55	-11.79%
1/1/2008	\$90,914.87	\$102,573.58	-\$11,658.71	-11.37%
1/1/2009	\$102,573.00	\$105,650.79	-\$3,077.79	-2.91%
1/1/2010	\$105,650.19	\$108,820.31	-\$3,170.12	-2.91%
1/1/2011	\$108,819.70	\$121,540.81	-\$12,721.11	-10.47%
1/1/2012	\$112,084.29	\$121,540.81	-\$9,456.52	-7.78%
1/1/2013	* \$116,006.00	\$127,540.81	-\$11,534.81	-9.04%
1/1/2014	** \$120,066.21	** \$132,004.74	-\$11,938.53	-9.04%
1/1/2015	** \$124,268.53	** \$136,624.90	-\$12,356.37	-9.04%
1/1/2016	** \$128,617.93	** \$141,406.78	-\$12,788.85	-9.04%
* proposed by Human Resources				
** Salary Increase for County Attorney/Public Defender				
in subsequent years is CPI-U between 2.5% - 4.5% -- used average of 3.5%				