

Consent Agenda

Regular Agenda

**JEFFERSON COUNTY  
BOARD OF COUNTY COMMISSIONERS**

**AGENDA REQUEST**

**TO:** Board of Commissioners  
Philip Morley, County Administrator  
**FROM:** David Alvarez, Chief Civil DPA  
**DATE:** January 28, 2013  
**RE:** Dankert, Christopher v. Jefferson County, Officer Bill Wells

---

**STATEMENT OF ISSUE:** While in the custody of the Jefferson County Jail Christopher Dankert was assaulted by another inmate. This assault occurred in December 2009. This assault has lead to the filing of a federal civil rights lawsuit on behalf of Mr. Dankert. The lawsuit alleges Corrections Officer Bill Wells "was the first officer on site to witness the assault." Plaintiff Dankert seeks punitive damages against Officer Wells. While it is highly unlikely that punitive damages will be awarded to Mr. Dankert against Officer Wells, such damages would not be paid by any insurance policy but instead would have to come from the personal assets of Officer Wells and/or his marital community, if applicable.

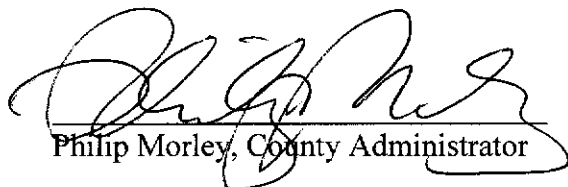
**ANALYSIS:** Officer Wells acted properly and within the scope of his duties with respect to the assault on Mr. Dankert. Thus, he is covered by the County's insurance policy for any non-punitive damage claims. Per the County's Risk Management Policy and RCW 4.96.041(4) the County may agree that it will pay any punitive damage award that might go against Officer Wells. The County would be formalizing its acceptance of responsibility for any punitive damages that might accrue against Officer Wells by adopting and executing the attached Resolution.

**FISCAL IMPACT:** None unless punitive damages are awarded to Mr. Dankert as against Officer Wells, a scenario that is highly unlikely.

**RECOMMENDATION:** Adopt and execute the attached Resolution.

**DEPARTMENT CONTACT:** David Alvarez, Chief Civil DPA. Extension 219

**REVIEWED BY:**

  
Philip Morley, County Administrator

1/23/13  
Date

STATE OF WASHINGTON  
County of Jefferson

In The Matter Of Agreeing  
To Pay Any Punitive Damages  
That Might Be Awarded Against  
A Certain Commissioned  
Correctional Officer Employed  
By The Jefferson County Sheriff

RESOLUTION NO. \_\_\_\_\_

*WHEREAS*, there are many risks faced by commissioned law enforcement officers employed by the Jefferson County Sheriffs Office; and

*WHEREAS*, one of those risks is the possibility of being sued for money damages as a result of actions and omissions undertaken by them while performing their assigned duties because those acts or omissions were allegedly unlawful and/or unconstitutional; and

*WHEREAS*, at least one (1) commissioned employee of the Jefferson County Sheriff's Office was involved in the incarceration of Christopher Dankert in December 2009; and

*WHEREAS*, the incident of December 12, 2009 has caused a civil lawsuit to be filed in the Superior Court of Jefferson County alleging that Jefferson County and Jefferson County Corrections Officer Bill Wells (as well as his spouse and marital community) are liable to Mr. Dankert for monetary damages; and

*WHEREAS*, the civil lawsuit alleges that as a commissioned officer Mr. Wells willfully and/or knowingly violated rights guaranteed to Mr. Dankert by the United States Constitution and that he should be individually punished for these intentional

constitutional violations by being required to pay punitive damages in addition to those damages that would serve to compensate (or make whole) Mr. Dankert; and

*WHEREAS*, it is a bedrock principle of insurance underwriting that insurance is not available to insure a person or entity against intentional actions by that person or entity or the consequences of such intentional actions, the consequences including, by way of example, payment of punitive damages; and

*WHEREAS*, no policy of insurance held by Jefferson County insures the County or its employees against intentional acts by the County or its employees; and

*WHEREAS*, the named Correctional Officer (his wife and his marital estate, if applicable) would be, therefore, personally liable for payment of any punitive *damages* that might be awarded in a court of law to Mr. Dankert; and

*WHEREAS*, a careful review of the events and circumstances relating to the arrest and incarceration of Mr. Dankert lead this County Commission to conclude that the commissioned officer neither undertook nor failed to undertake any action that should lead a court of law to award punitive damages against him; and

*WHEREAS*, despite the conclusion reached in the previous sentence, it remains impossible to predict with certainty that there will be no award of punitive damages against the commissioned officer.

*NOW, THEREFORE, BE IT RESOLVED* by the Board of Commissioners of and for the County of Jefferson as follows:

1. Jefferson County Sheriff's employee Correctional Officer Bill Wells) acted properly, with good faith and within the scope of his duty during

- the incarceration of Mr. Dankert in December 2009 and as such he is entitled to a defense within the scope of the relevant insurance policy that insure the political subdivision known as Jefferson County; and
2. The County agrees it shall, to the extent necessary, pay any and all punitive damages that might be assessed against the commissioned Correctional Officer Bill Wells (and/or the wife and marital estate of Mr. Wells, if applicable) in any lawsuit filed as a result of the allegedly unlawful or unconstitutional acts or omissions which occurred (or failed to occur) during the 2009 incarceration of Mr. Dankert.

Approved and adopted this \_\_\_\_\_ day of \_\_\_\_\_, 2013.

SEAL:

JEFFERSON COUNTY  
BOARD OF COMMISSIONERS

Phil Johnson, Chair

David W. Sullivan, Member

John Austin, Member

Deputy Clerk of the Board