



MIKE FRENCH, District 3, Chair
RANDY JOHNSON, District 2
MARK OZIAS, District 1

Board of Clallam County Commissioners

223 East 4th Street, Suite 4
Port Angeles, WA 98362-3015
360.417.2233 Fax: 360.417.2493
Email: commissioners@clallamcountywa.gov

TODD MIELKE, County Administrator

October 29, 2024

Clerk of the Supreme Court
Temple of Justice
PO Box 40929
Olympia, WA 98504-0929

Also sent via email to supreme@courts.wa.gov

RE: Proposed Changes to Standards for Public Defense

Dear Justices of the Supreme Court,

Thank you for reaching out for comments to the Washington State Bar Association's and Council on Public Defense's proposed amendments to the adopted standards for public defense. We support the concerns raised by Clallam County Prosecuting Attorney Mark Nichols in his October 15 letter, and wish to raise additional concerns from our perspective as County Commissioners.

We believe we share the same goal as others who are responsible for the implementation of public defense; namely, a sustainably-funded system that ensures that all those who require a public defense be provided with a capable attorney who has sufficient time and resource to provide the basic Constitutional right of representation.

Unfortunately, if reduced caseload standards are adopted without additional consideration for HOW they are to be implemented, the more likely result will be a broken system of justice. Our concerns center on two realities:

- The cost to Clallam County (and all counties) to fully implement these new standards is unrealistic, and
- The ability (or lack thereof) of Clallam County, in partnership with Clallam Public Defenders, to successfully recruit and retain the increased number of attorneys that would be engaged in providing public defense services.

Right now, Clallam County recognizes approximately \$2.2 million in annual expense to support our public defense obligation, while the State's contribution to this shared responsibility is less than \$70,000 annually. Even under our current system this expense is increasing; just last week we were forced to process a budget emergency related to rising cost for the retention and availability of conflict attorneys.

We project that should these new standards be adopted and implemented this expense will rise to more than \$6 million annually by 2028. ***To be frank, this level of expense would drastically impact every other basic service that county government exists to provide.*** Like all counties, we are faced with a variety of inflationary cost centers and are working carefully this budget cycle to meet the need. Our county is facing a preliminary budget deficit of more than \$4 million (on a \$54 million budget) for 2025 and we are actively working to reduce expense. We already struggle to meet the current expense, and we have no reasonable path forward to meet the projected new expense.

Clallam Public Defenders currently employs 7.0 FTEs for the provision of public defense in Clallam County. Like many remote, rural counties we struggle to recruit and retain professionals of many stripes – including, and maybe especially, attorneys. This is not relegated just to public defenders; our Prosecuting Attorney's Office has been working to hire both criminal and civil deputies to fill jobs that have been open in some cases for years, despite a competitive salary and substantial hiring bonuses. Should these new standards be adopted, Clallam Public Defenders would need to hire 10.0 additional attorneys, not to mention 14 FTEs in support staff. In the real world, this is unrealistic.

You've already heard testimony from advocates for these new standards that recognizes they will be impossible to implement and that envisions local jurisdictions crafting a plan for how they are to be met; when we try to envision rural areas like ours crafting these plans we keep in mind both the burden to be placed on our non-profit public defender's office as well as the potential inconsistent application of justice in the future as the most well-resourced counties rush to hire new attorneys from a pool that is too small to accommodate all counties' needs.

Rather than adopting standards that predictably cannot be achieved, we would like to encourage dialogue between the Court and the State Legislature focused on building a public defense system that actually meets the need. This will require BOTH significant additional funding and creative strategies to meet the realities of communities like ours that simply do not have access to sufficient numbers of attorneys and other professionals. It stands to reason that a public defense workload study specific to Washington State should provide the information needed before any changes are implemented.

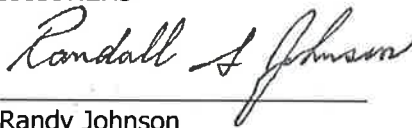
Thank you again for your consideration of our concerns. We truly believe that with the right inputs being used to determine appropriate standards, and sufficient funding being allocated by the Legislature to support the need, we can ensure that communities throughout the state – including ours – are able to provide this vital, Constitutionally-protected right to all those who require a public defense.

Sincerely,

BOARD OF CLALLAM COUNTY COMMISSIONERS



Mike French, Chair



Randy Johnson



Mark Ozias

From: [OFFICE RECEPTIONIST, CLERK](#)
To: [Martinez, Jacquelynn](#)
Subject: FW: Clallam County Correspondences - Changes to Standards for Public Defense
Date: Tuesday, October 29, 2024 10:46:14 AM
Attachments: [Public Defense Standards Supreme Court 10-29-24.pdf](#)

From: Gores, Loni <loni.gores@clallamcountywa.gov>
Sent: Tuesday, October 29, 2024 10:20 AM
To: OFFICE RECEPTIONIST, CLERK <SUPREME@COURTS.WA.GOV>
Cc: Gores, Loni <loni.gores@clallamcountywa.gov>; Ozias, Mark <mark.ozias@clallamcountywa.gov>
Subject: Clallam County Correspondences - Changes to Standards for Public Defense

You don't often get email from loni.gores@clallamcountywa.gov. [Learn why this is important](#)
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Clerk of the Supreme Court:

Please see attached letter approved by the Clallam County Board of Commissioners.

Loni

“My email address has changed! The new format is Loni.Gores@clallamcountywa.gov Please update my contact card as your earliest convenience, Thank you!”

*Loni Gores
Clerk of the Board
Commissioners Office
223 East 4th Street, Suite 4
Port Angeles, WA 98362
Phone: 360-417-2256*