

Judge Deborah Fleck (ret'd)  
c/o JAMS  
1420 Fifth Avenue, Suite 1650  
Seattle, WA 98101

October 30, 2024

To: Washington State Supreme Court Justices

Re: Comment on Proposed Criminal Defense Standards

Dear Justices of the Supreme Court,

I am not writing to comment on the proposed criminal defense standards themselves. It is clear that public defenders are significantly overworked and underpaid. It is also clear that the ability of counties and cities to address indigent defense, a core component of our criminal legal system, varies widely depending on the financial circumstances of local jurisdictions, resulting in unequal justice across Washington State.

Rather, I write to ask, as you weigh and adopt new criminal defense standards, that you remember and consider the recommendations of the Trial Court Funding Task Force. Then-Chief Justice Gerry Alexander called the Trial Court Funding Task Force's efforts to attain "adequate, stable and long-term funding" of the trial courts "the most significant reform effort of the judicial branch since statehood." The Task Force's overarching conclusion is that state and local governments should each pay roughly half the costs of the trial courts, with the state paying 100% of costs it mandates, including indigent defense, as discussed briefly below.

The Trial Court Funding Task Force itself and its five Work Groups and many subcommittees had over 100 members from every possible interest group – judges, lawyers, business, labor, counties, cities, legislators, county clerks, good government groups, the bar association, the DMCJA, the SCJA, academia, ATJ, AOC, court administrators and more (see **Attachment A** for Task Force members and subsequent pages at the link below for Work Group members). Members of the Task Force, the Work Groups and their subcommittees participated in dozens of meetings over a two year period and devoted hundreds of hours of their time. The Task Force issued its main report, **Justice in Jeopardy: the Court Funding Crisis in Washington State** in December of 2004.

[https://www.courts.wa.gov/programs\\_orgs/pos\\_bja/wgFinal/wgFinal.pdf](https://www.courts.wa.gov/programs_orgs/pos_bja/wgFinal/wgFinal.pdf)

**Attachment B** is the compelling, two page Preface by the Task Force Chair, Wayne Blair. It states in part, with emphasis added:

Washington's trial courts, consisting of more than 400 judges, adjudicate more than 2.3 million cases each year. Millions of lives are affected by trial court rulings on criminal, civil and family law cases. For a branch of government that directly impacts the lives of citizens every day, funding of our equal but separate branch of government is shockingly low.

Consider that Washington State ranks 50<sup>th</sup> in the nation providing funding for our trial courts, prosecution and **indigent defense**. With less than three-tenths of one percent of the State's budget going towards funding our judicial branch of government, the lack of funding for Washington's trial courts critically impacts the judicial system's ability to provide equal justice for all in a timely way.

There is a serious imbalance between state and local funding for the trial courts and **indigent defense**, the state's contribution covering only 10.8% of the annual cost. The state, through the legislature, determines much of the workload of the courts. The state determines the number of judges, the salary of judges, and is a frequent party in court. The state needs to invest in our trial courts and to pay its fair share.

While local governments across the state are being crushed by the impacts of public safety costs for jails, police, prosecution and the courts – nearly 70% in some localities – the portion of local funding devoted to the courts seldom reaches six percent total. State trial courts are short each year at least \$53.8 million for court operations and **\$132 million for indigent defense.**

**Attachment C** is the first four pages of the Task Force's Executive Summary. The first page lists the mission as well as "selected principles for Trial Court Funding." You will see that on the second page, the Task Force identified inadequate funding, not only for trial court operations, but also targeted **indigent defense representation**, and the inequity that exists in state and local funding for trial courts. Twenty years ago in 2004, the unmet needs for trial court operations were \$53.8 million and the unmet **indigent defense** needs were \$131.9 million as stated above.

**Attachment D** is the "Nexus Chart" at page 54 of the Task Force's Justice in Jeopardy Report. It identifies the nexus between state authority and trial court costs. The left column identifies the components of the trial court costs that are mandated by the state. It includes **Criminal Indigent Defense** (all court levels) and the footnote cites the State Constitution and statutory provisions requiring the government to provide that representation. (The middle column and the right hand column list other necessary components of the courts that the judicial branch has authority but is not mandated by the state to provide.)

The fourth page of Attachment C, the Executive Summary, states:

If the unmet funding needs for court operations and **indigent defense** were met and the state assumed funding responsibility for 100% of the nexus items, the trial court funding would be more balanced, with the state responsible for 51 percent of the costs and local government responsible for 49 percent as the table below depicts.

**Table B      Result of Reallocation of Total Funding  
(FY 2000 and Estimated Need) (millions)**

	<b>State</b>	<b>Local</b>	<b>Total</b>
Court Operations	\$ 98.6	\$ 296.5	\$ 395.1
<b>Indigent Defense</b>	\$ 210.6	\$ 0.0	\$ 210.6
Total	\$ 309.2	\$ 296.5	\$ 605.7



In the 2005 legislative session, the judicial branch undertook the Justice in Jeopardy Initiative, based on the Court Funding Task Force Report titled Justice in Jeopardy, and also based on the WSBA Blue Ribbon Panel on Indigent Defense, and the Supreme Court's Civil Legal Needs Study. Before the economic recession, the expectation was that it would take five to six biennia to achieve the goals of the Justice in Jeopardy Initiative.

The common wisdom in the 2005 session was that it takes at least three years to persuade the Legislature to make a major policy change, particularly one in which the state assumes new funding responsibilities. Yet in the 2005 legislative session, the Legislature did just that, even though it was facing a \$1.5 billion budget deficit. The Legislature should be credited with stepping up to begin addressing a fundamental problem of unequal funding of the trial courts across the state, by dedicating \$32 million/biennium in new funding in the 2005 legislative session. We continued to make progress through the 2008 legislative session achieving about \$78 million/biennium to address identified needs, until the Great Recession. I believe legislators did so because of the simple, logical premise that they should pay for what they mandate, the remarkable efforts devoted by the Task Force and the bipartisan desire to do the right thing to address a huge and glaring problem that created unequal justice in Washington State.

In this letter, I have attempted to describe the scale and the scope of the Task Force and the Justice in Jeopardy efforts. The problem, particularly the problem of public defense, has not changed and likely has worsened. As Ron Ward, then WSBA President, said as he met with stakeholders across the state, Washington is "dead last," 50<sup>th</sup> out of the 50 states in the state contribution to the trial courts. A roughly equal sharing between the state and local government of the trial court costs is common sense. It allows hard, fixed costs such as indigent defense to be covered by the state, while the other roughly 50% of the costs of the trial courts are left to local judges and their local government officials to negotiate funding these non-mandated costs.

Finally, I urge the court to assume leadership of the whole issue, not simply the standards themselves. The judicial branch historically has worked very effectively with the other branches on major issues. Your 2020 letter about racial injustice in society and unfortunately in our justice system and your reference to our moral imperative to address it keeps coming to mind. The racial disparity that continues to exist in the legal system will likely worsen fairly dramatically if local governments are left to struggle with the significant new cost burden of major caseload standards changes. And unequal justice will continue between counties and cities in various parts of the state because some local governments are better off financially than many others.

The Task Force recommendation of the state being financially responsible for indigent defense continues to be the best solution. The BJA co-chaired by the Chief Justice and the Trial Court Associations as well as other associations and organizations (see Attachment A) can work with the legislative leadership and the Governor to address the funding crisis that will upset the system of justice without this major systemic funding change.

Respectfully submitted,



Judge Deborah Fleck, ret'd.  
King County Superior Court

Indigent Defense  
Page 4

Copy: Larry Jefferson, OPD  
Jason Schwarz, WSBA Council on Public Defense  
Russell Brown, WAPA  
Candice Bock, Assn of Washington Cities  
Derek Young, WSAC

# Attachment A

## *Justice in Jeopardy:*

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"Injustice anywhere  
is a threat to  
justice everywhere."

— Martin Luther King, Jr.  
April 16, 1963

### THE COURT FUNDING CRISIS IN WASHINGTON STATE

BOARD FOR JUDICIAL ADMINISTRATION  
COURT FUNDING TASK FORCE  
DECEMBER 2004





## COURT FUNDING TASK FORCE MEMBERSHIP

**Chair:**

M. Wayne Blair, Montgomery Purdue Blankinship & Austin PLLC

**Academia:**

Roland Hjorth, University of Washington School of Law

**Access to Justice:**

Judge James M. Murphy, Retired, Access to Justice

**Administrative Office of the Courts:**

Janet McLane, Interim State Court Administrator  
Mary McQueen, State Court Administrator \*\*

**Association of Washington Business:**

Judy Warnick, Central Bonded Collectors

**Association of Washington Cities:**

Edsonya Charles, City of Seattle

**Association of Washington Superior Court****Administrators:**

Jeff Amram, Clark County Superior Court Administrator

**Court of Appeals:**

Judge John Schultheis, Division III

**District and Municipal Court Judges' Association:**

Judge Stephen J. Holman, Bainbridge Island Municipal Court  
Judge Eileen Kato, West Division, King County District Court  
Judge Robert McSeveney, Kent Municipal Court  
Judge Michael P. Roewe, Lewis County District Court

**District and Municipal Court Management Association:**

Pam Springer, Skagit County District Court  
Joan Ferebee, Edmonds Municipal Court \*\*

**King County Bar Association:**

John Cary, President-elect

**League of Women Voters of Washington:**

Cheryl Bleakney

**Superior Court Judges' Association:**

Judge Stephen Dwyer, Snohomish County Superior Court<sup>1</sup>  
Judge Deborah Fleck, King County Superior Court  
Judge Gordon Godfrey, Grays Harbor County Superior Court  
Judge Robert Harris, Clark County Superior Court  
Judge Kathleen M. O'Connor, Spokane County Superior Court

**Washington Association of Counties:**

Commissioner Mike Chapman, Clallam County

**Washington Association of Criminal Defense Lawyers:**

David Donnan, Attorney at Law

**Washington Association of Prosecuting Attorneys**

Tom Metzger, Pend Oreille County Prosecuting Attorney

**Washington Defense Trial Lawyers:**

Michael H. Runyan, Lane Powell Spears Lubersky LLP

**Washington State Association of County Clerks:**

Rena Hollis, Skamania County Clerk

**Washington State Bar Association:**

James Kirkham Johns, Stafford Frey Cooper  
Ron Ward, Levison Friedman PS and President-elect

**Washington State House of Representatives:**

Representative Ruth Kagi, Democratic Caucus  
Representative Lois McMahan, Republican Caucus

**Washington State Labor Council:**

Robby Stern, Esq.

**Washington State Trial Lawyers Association:**

Rebecca Roe, Schroeter, Goldmark and Bender  
John Connelly Jr., Gordon, Thomas, Honeywell \*\*

**Washington State Senate:**

Senator Mike Hewitt, Republican Caucus  
Senator Adam Kline, Democratic Caucus

**Work Group Co-Chairs:**

Judge Ann Schindler, Court of Appeals, Division I  
Judge Tom Warren, Chelan County District Court  
M. Janice Michels, Washington State Bar Association  
Executive Director

**Interested Parties**

Tammy Fellin, Association of Washington Cities  
Sophia Byrd, Washington State Association of Counties  
Gail Stone, Washington State Bar Association

**Task Force Staff, Administrative Office of the Courts**

Gil Austin, Manager, Court Services  
Jude Cryderman, Administrative Coordinator  
Doug Haake, Court Services Specialist  
Jeff Hall, Director, Board for Judicial Administration  
Yvonne Pettus, Manager, Policy and Planning

*The recommendations of the Task Force and of Work Groups do not necessarily represent the individual views of each Task Force or Work Group member or the views of the organization that appointed them.*

<sup>1</sup>Judge Dwyer was initially appointed to the Task Force in his then capacity as President of the District and Municipal Court Judges' Association. Judge Dwyer was subsequently appointed to the Snohomish County Superior Court bench by Governor Locke.

## PREFACE

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*“Injustice anywhere is a threat to justice everywhere.”*

*Martin Luther King, Jr., April 16, 1963*

No phrase represents the impact of the funding crisis facing our trial courts better than these words of the Reverend Martin Luther King, Jr.

Chronic under-funding of our trial courts has led to a crisis in court operations and indigent defense funding. Currently, a patchwork system of justice from one county to the next has created a serious disparity in the way laws are being enforced and the trial courts are being operated throughout Washington State.

When trials courts lack adequate long-term funding, there is initially a reduction of services available through the courts, staff is laid off, court hours are cut back, and in extreme cases sitting judges are reduced. Justice through out the state is not equal as jurisdictions with more money are “more equal.” Hearings are delayed and cost to the parties is increased. Over time, the rule of law and access to justice are in jeopardy. Eventually the independence of the judiciary is threatened and people’s trust and confidence in the courts is undermined.

**This lack of funding has already produced tragic results:**

- *According to a statewide fatality review panel in 2000, the death of 3-year-old Zy’Nyia Nobles could have been prevented, in part, if a courtroom had been available to hear her parental termination proceeding in Pierce County Superior Court.*
- *In 2001, crowded court calendars in the same county delayed the trial of a violent felon two days beyond speedy trial deadlines. Released from prison, he broke into the home of a young mother and raped her, and while fleeing from police, crashed his vehicle into a motorist, killing the innocent bystander instantly.*
- *In Okanogan County, the local government could not afford the huge expense of prosecuting and defending a death penalty case. The prosecutor could not seek the death penalty simply for financial reasons.*
- *The public defense crisis in Grant County has led to numerous defendants receiving ineffective and incompetent legal representation.*

Washington’s trial courts, consisting of more than 400 judges, adjudicate more than 2.3 million cases each year. Millions of lives are affected by trial court rulings on criminal, civil and family law cases. For a branch of government that directly impacts the lives of citizens everyday, funding of our equal but separate branch of government is shockingly low.

Consider that Washington State ranks 50<sup>th</sup> in the nation providing funding for our trial courts, prosecution and indigent defense. With less than three-tenths of one percent of the State’s



budget going towards funding our judicial branch of government, the lack of funding for Washington's trial courts critically impacts the judicial system's ability to provide equal justice for all in a timely way.

There is a serious imbalance between state and local funding for the trial courts and indigent defense, the state's contribution covering only 10.8% of the annual cost. The state, through the legislature, determines much of the work load of the courts. The state determines the number of judges, the salary of judges, and is a frequent party in court. The state needs to invest in our trial courts and to pay its fair share.

While local governments across the state are being crushed by the impacts of public safety costs for jails, police, prosecution and the courts—nearly 70% in some localities—the portion of local funding devoted to the courts seldom reaches six percent total. State trial courts are short each year at least \$53.8 million for court operations and \$132 million for indigent defense.

Unless an additional and stable source of funding for trial courts is found soon, Washingtonians can expect continued degradation of our courts as county governments struggle to provide basic services. The services courts provide are too important to our society as a whole—and to citizens individually—to permit their continued competition for scarce county dollars.

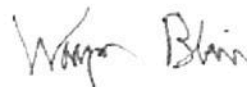
Equal justice is not simply a goal to strive for; rather it is the basic foundation of a just democratic society. Lack of adequate, stable and long-term funding places our system of justice in jeopardy and undermines the public's trust and confidence in the courts. And each year that we fail to act only exacerbates the situation and produces an unjust and unfair court system.

The citizens of Washington State want and deserve more.

This has been a two-year effort by more than 100 people working through one task force, five work groups and many subcommittees. Their efforts through literally hundreds of meetings involving thousands of hours have produced the recommendations of this report.

I cannot begin to thank so many for doing so much. Thank you to the members of the Task Force and Work Groups for your dedication to the cause of trial court funding and the administration of justice. Special thanks to Judge Deborah Fleck for her vision, inspiration, and leadership, the Work Group Co-chairs for their commitment and strong leadership, to Janet McLane and Jeff Hall and the rest of the AOC staff for work above and beyond, and finally to Washington Supreme Court Chief Justice Gerry Alexander for his constant support and encouraging words.

In many ways, our work is just beginning. We need now to implement the many recommendations of the Task Force. All of us understand that this part of the effort will take years.



*M. Wayne Blair*  
*Chair, Court Funding Task Force*



## **"JUSTICE IN JEOPARDY"**

Justice is in Jeopardy in Washington State today. Trial courts are not adequately funded resulting in unequal justice and excessive delay. There are an insufficient number of judges and staff, offenders in some instances are not being held accountable and children are placed at risk. Indigent criminal defendants, juvenile offenders, and parents involved in dependency actions are denied their constitutional rights. Funding of civil legal services to indigent persons has been severely reduced resulting in thousands of poor persons being denied equal access to the judicial system or even access to legal information.

On all fronts, our system of justice in the trial courts is suffering a long and slow strangulation from lack of resources to the point where judges, attorneys, litigants, and the public no longer appreciate how an adequately funded system should operate. Justice in jeopardy is eroding trust and confidence in the courts.

Countless judicial efforts over the past 30 years at the state and local levels have resulted in real improvements in the effectiveness and efficiencies of the trial courts. Each of these efforts has also stressed the need for additional funding and yet, court funding reform, while continually discussed, has never been secured.

The Court Funding Task Force was established to focus exclusively on the issue of trial court funding, both the amount necessary to adequately fund the trial courts and the structure of funding necessary to ensure long-term funding stability so the trial courts can reliably provide equal justice across the state in a timely manner.

The Board for Judicial Administration enlisted the efforts of a broad-based group of stakeholders to serve on the Task Force, including state legislators, county commissioners and council members, the public, business, labor, county clerks, court administrators, the bar and the judiciary. Over the past two years, these representatives contributed their time, talent and experience to

### **TASK FORCE MISSION**

**DEVELOP AND IMPLEMENT A PLAN TO ACHIEVE ADEQUATE, STABLE AND LONG-TERM FUNDING OF WASHINGTON'S TRIAL COURTS TO PROVIDE EQUAL JUSTICE THROUGHOUT THE STATE.**

### **SELECTED PRINCIPLES FOR TRIAL COURT FUNDING**

- Trial courts are critical to maintaining the rule of law in a free society; they are essential to the protection of the rights and enforcement of obligations for all.
- Trial courts must have adequate, stable, and long-term funding to meet their legal obligations.
- Trial court funding must be adequate to provide for the administration of justice equally across the state.
- Legislative bodies, whether municipal, county, or state, have the responsibility to fund adequately the trial courts.
- The State has an interest in the effective operation of trial courts and the adequacy of trial court funding, and should contribute equitably to achieve a better balance of funding between local and state government.
- Trial courts are not self-funding. The imposition of fines, penalties, forfeitures and assessments by trial courts are for the purpose of punishment and deterrence, and must not be linked to the funding of trial courts.

an exhaustive study of trial court funding needs and the development of recommended solutions to address those needs.

This Task Force's work was conducted through five Work Groups to define the problem, study funding alternatives, examine the structure and function of the courts of limited jurisdiction, promote public education about trial court funding, and implement the recommendations of the task force.

To guide discussions, deliberations, and outcomes the Task Force adopted a set of guiding principles which can be found in the report beginning at page 23.

## ***Defining the Problem***

The Task Force recognized three funding problems:

1. Inadequate funding for trial court operations and indigent defense representation.
2. Inequity in state and local responsibility for trial court funding.
3. Convoluted revenue stream and accounting practices in determining revenue and costs.

Applying the adopted principles to these problems and projecting the needs for adequate funding started with documenting current expenditures.

### **THE NEED**

In FY 2000<sup>2</sup>, the total cost of operating the trial courts was \$341.7 million and an additional \$78.7 million was spent on indigent defense services in criminal and dependency cases.

<b>Table A FY 2000* Trial Court Expenditures</b>			
<b>Court</b>	<b>State</b>	<b>Local</b>	<b>Total</b>
Superior Court	\$16,600,000	\$63,728,525	\$80,328,525
Juvenile Court	\$28,910,713	\$87,274,206	\$116,184,919
County Clerk	\$0	\$37,659,943	\$37,659,943
District Court	\$0	\$65,016,427	\$65,016,427
Municipal Court	\$0	\$42,506,824	\$42,506,824
<b>Total</b>	<b>\$45,510,713</b>	<b>\$296,185,925</b>	<b>\$341,696,638</b>
Indigent Defense	\$0	<b>\$78,733,803</b>	<b>\$78,733,803</b>

\*Juvenile Court data is FY 2001. Data imputed for non-reporting jurisdictions, see Appendix E.

The unmet needs, documented by applying agreed standards and measures of workloads and discussed in more detail in the report are:

Trial Court Operations	\$53.8 million
Indigent Defense	<u>\$131.9 million</u>
<b>Total</b>	<b>\$185.7 million</b>

<sup>2</sup>FY 2000 expenditure data is used throughout this report and is referred to as "current" expenditures. As more fully explained in Appendix E developing current statewide court expenditure data is problematic due to the variety of court budgeting structures among counties and cities.



In addition to these needs, a separate task force, appointed by the Washington Supreme Court, entitled Task Force on Civil Equal Justice Funding was asked to quantify the unmet civil legal needs of low and moderate income households in Washington and to recommend a means to secure adequate funding. That Task Force concluded that civil legal services<sup>3</sup> need an additional \$18.3 million annually. Adding this need to the figures above shows that the total amount required to assure justice in Washington is \$204 million annually.

### **EQUITABLE SHARING OF TRIAL COURT COSTS**

Currently, local government bears nearly 90 percent of this burden of funding the trial courts and indigent defense services for criminal and dependency cases. According to a 1998 Bureau of Justice Assistance report, no other state in the nation contributes less to support the trial courts and indigent defense than does the state of Washington with the midpoint of state support at approximately 50 percent. Current state expenditures to support the judicial branch consist almost entirely of the budgets for the Supreme Court, Court of Appeals, Administrative Office of the Courts, Office of Public Defense<sup>4</sup>, and Law Library. Still, this number totals less than 3/10ths of one percent of the state operating budget.

The Task Force recognized that state interests, criminal statutes, and state agencies, including the State Patrol, drive a significant portion of the work of the trial courts. State requirements have driven the cost of the trial courts beyond the funding mechanisms available to local government. The factors demonstrating the State's interest include:

- Quality justice should be equally available and accessible to every citizen in the state, regardless of their county or city of residence.
- State agencies and actors directly drive local costs from the Office of the Attorney General filing dependency cases in superior courts to the State Patrol filing driving under the influence of alcohol (DUI) and other major and minor traffic infractions in district courts.
- State interests and policies such as the setting of the blood alcohol limit, three-strikes-your-out laws, and driving while license suspended violations directly impact the caseload and trial rates in courts.
- The state determines the number of superior court and district court judges.
- Superior and district court judges' salaries are set by the Citizens' Commission on Salaries for Elected Officials and are codified in state statutes.
- Many actions in superior court are either filed by or are filed against the state.

The Task Force concluded that the state has a strong interest in the operations of the trial courts and should be a partner with local government in their funding. The Task Force developed a model to assess the state's participation based on those areas where a strong connection or "nexus" is most clear between state actions or state mandates and the costs of court operations and concluded that these areas should be funded by the state. The items identified included judges' salaries at superior, district and municipal courts, the verbatim records of proceedings, mandatory arbitration, juvenile dependency representation, guardians ad litem in dependency cases, interpreters, criminal defense, juror fees and mileage and witness costs.

<sup>3</sup>The total unmet funding need for civil legal services is \$28.1 million, of which \$18.3 million has been identified as attributable to legal needs for which assistance is authorized using state funds.

<sup>4</sup>The Washington State Office of Public Defense manages contracts for indigent criminal appeals only. Trial court level indigent defense services are all provided locally.



If the unmet funding needs for court operations and indigent defense were met and the state assumed funding responsibility for 100 percent of the nexus items, the trial court funding would be more balanced, with the state responsible for 51 percent of the costs and local government responsible for 49 percent, as the table below depicts.

<b>Table B Result of Reallocation of Total Funding (FY 2000 and Estimated Need) (millions)</b>			
	<b>State</b>	<b>Local</b>	<b>Total</b>
Court Operations	\$ 98.6	\$ 296.5	\$ 395.1
Indigent Defense	\$ 210.6	\$ 0.0	\$ 210.6
<b>Total</b>	<b>\$ 309.2</b>	<b>\$ 296.5</b>	<b>\$ 605.7</b>

## ***Funding Solutions***

### **EFFICIENCIES**

Spurring the judiciary to create this Task Force dedicated solely to the issue of trial court funding was the fact that virtually every major commission, panel, and task force in the last 30 or more years which studied Washington State courts has concluded that the trial courts are not adequately funded and the responsibility for funding should be shared jointly between state and local government. The judicial branch has implemented almost all of the many reforms recommended by these prior efforts to improve efficiency but efficiencies alone cannot address the jeopardy created by inadequate and unstable trial court funding.

### **USER FEES**

The Task Force considered the role of "user fees" (filing fees being the primary example) in directly supporting trial court operations. The Task Force concluded that given the scope of the unmet need, user fees simply did not constitute a significant revenue source. Acknowledging that there is an appropriate balance between the private good that accrues to individuals and entities in accessing the courts and the public good that accrues to everyone when disputes are resolved consistently and peaceably, the Task Force nevertheless recognized the very real financial barriers that user fees present in accessing justice. The Task Force, therefore, did not

**THE TASK FORCE RECOMMENDS THAT THE BOARD FOR JUDICIAL ADMINISTRATION** seek legislation creating:

- A fee for filing cross, counter and third party claims in Superior and District Courts (excluding unlawful detainer cases) equal to the original filing fee in civil actions, and
- A fee of \$55 to be assessed, at the discretion of the trial judge, against defendants in courts of limited jurisdiction upon a plea of guilty or conviction for misdemeanors and gross misdemeanors.

**THE TASK FORCE RECOMMENDS THAT THE BOARD FOR JUDICIAL ADMINISTRATION** seek legislation:

- Increasing the filing fee in superior court to \$200 and the district court filing fee to \$55; and,
- Implementing the proposed increases to existing court fees as contained in Appendix I.

# Attachment D

## Nexus Continuum Profile The Nexus Between State Authority and Trial Court Costs

Authority (shall)		Authority (may)
<b>Superior Courts</b> Number of judges <sup>1</sup> Judge salaries and benefits <sup>1</sup> Verbatim Record of Proceedings <sup>2</sup> Mandatory Arbitration <sup>3</sup>	<b>Superior Courts</b> Court Commissioners Staffing positions and salaries	<b>Superior Courts</b> Commissioners <sup>15</sup> ADR Facilitators <sup>16</sup> Mandatory Arbitration <sup>3</sup>
<b>District Courts</b> Number of judges <sup>1</sup> Judges' salaries <sup>1</sup>	<b>District Courts</b> Staffing positions and salaries <sup>10</sup>	<b>District Courts</b> Commissioners <sup>17</sup> Probation ADR Re-licensing Programs
<b>Juvenile Courts</b> Juvenile Dependency Representation <sup>4</sup> GAL In Dependency Cases <sup>5</sup>	<b>Juvenile Courts</b> <sup>11</sup> Detention staff and services Probation staff and services	<b>Juvenile Courts</b> Selective Aggressive Probation Work Crews
<b>Municipal Courts</b> Number of judges <sup>6</sup>	<b>Municipal Courts</b> <sup>12</sup> Staffing positions and salaries <sup>13</sup> Number of judges Judges' salaries and benefits	<b>Municipal Courts</b> Commissioners <sup>18</sup> Probation Re-licensing Programs
<b>Other</b> Language Interpreter Costs <sup>7</sup> (all court levels) Juror Costs <sup>8</sup> (all court levels) Witness Fees <sup>9</sup> (all court levels) Criminal Indigent Defense <sup>10</sup> (all court levels)	<b>County Clerks</b> <sup>14</sup> Staffing positions and salaries	

<sup>1</sup> State sets judges salaries (Wa. State Const. Art. 4 § 1) and State sets number of judgeships (RCW 2.08.061-.065 and RCW 3.34.010).

<sup>2</sup> Superior court is a court of record and legislature may provide that inferior courts are courts of record (Wa. State Const. Art. 4 § 11, Chapter 2.32. RCW, SPRC 3, RCW 3.02.030, RCW 3.02.040, and ARLJ 13).

<sup>3</sup> Mandatory Arbitration is required in counties of more than 150,000 and optional in counties of less than 150,000 (RCW 7.06.010). Arbitrator pay is set by statute as equal to that of a judge pro-tempore (RCW 7.06.040).

<sup>4</sup> Juvenile Dependency cases are filed by State Attorney General and prosecuted in the name of the State and the provision of counsel for indigent parties is the responsibility of local government (RCW 13.34.090).

<sup>5</sup> The court shall appoint a guardian ad litem for a child who is the subject of a dependency action (RCW 13.34.100).

<sup>6</sup> Cities with a population over 400,000 must establish a municipal court consisting of a minimum of three departments (RCW 35.20.010 and 35.20.100).

<sup>7</sup> Interpreter requirements are established by statute (RCW 2.43.040 and RCW 13.04.043).

<sup>8</sup> Right to a jury trial established in Constitution (Wa. State Const. Art. 1 § 21). The size of the jury and jury compensation are set in statute (RCW 2.36.150, RCW 4.44.120, RCW 4.44.310, RCW 10.01.040, and RCW 10.04.050).

<sup>9</sup> Witness cost fees and mileage are set in statute (RCW 2.40.010).

<sup>10</sup> The right to representation is established in the State Constitution and statute ((Wa. State Const. Art. 1 § 3, Wa. State Const. Art. 1 § 22, RCW 10.101.005, RCW 39.34.180).

<sup>11</sup> Compensation for District Court staff is set by the local legislative authority (RCW 3.54).

<sup>12</sup> Juvenile Court detention and probation are to be supervised by Superior Court (RCW 13.04.035 and 13.05.040).

<sup>13</sup> Cities are responsible for the adjudication of misdemeanor and gross misdemeanor offenses committed in their jurisdiction (RCW 39.34.180).

<sup>14</sup> Cities that establish an independent municipal court are responsible for setting the salaries and compensating municipal court judges and staff (RCW 3.50.080).

<sup>15</sup> County Clerks are constitutional officers whose duties are prescribed in state law. Clerk Office staff and operating costs are funded locally.

<sup>16</sup> Article 4 § 23 confers upon the superior court the discretion to appoint three commissioners with authority to perform "like duties as a judge of the superior court."

<sup>17</sup> Counties may create a facilitators program (RCW 26.12.240).

<sup>18</sup> When authorized, a district court may appoint commissioners (RCW 3.42.010).

<sup>19</sup> A Municipal court judge may appoint commissioners (RCW 3.50.075).