

An ordinance creating a new chapter titled, Indigent Defense Standards, in the Clallam County Code

BE IT ORDAINED BY THE BOARD OF CLALLAM COUNTY COMMISSIONERS:

Section 1. Section .010, Indigent Defense Standards Adopted, is created to read as follows:

Pursuant to the requirements of RCW 10.101.030 and Order 25700-A-1004 of the Washington State Supreme Court, the indigent defense standards set forth in the Supreme Court order are hereby adopted and incorporated by this reference as fully as if herein set forth. These adopted standards shall be deemed amended, from time to time, upon amendment of the standard by the State Supreme Court.

Section 2. Section .020, Guidelines for Indigent Defense Standards, is created to read as follows:

The standards for indigent defense services adopted by the Washington State Bar Association as approved by its board of governors on June 3, 2011 shall serve as a guideline in the interpretation and application of the indigent defense standards adopted in Section 1.

Section 3. Section .030, Compliance with Indigent Defense Standards, is created to read as follows:

Clallam County hereby requires indigent defense practitioners providing service in the Superior Court, comply with the Supreme Court order, as interpreted pursuant to the Washington State Bar Association guidelines. The staff is requested and directed to incorporate such standards in all contracts for the providing of indigent legal defense and to provide for an annual reporting system to confirm implementation of these standards as set forth by the Washington State Supreme Court. Such report shall include case count information as well as confirmation of compliance by defense counsel with the certification requirements of the court rule.

Section 4. Section .040, Superior Court Adult Caseload Limits and Types of Cases, is created to read as follows:

The caseload should allow each attorney to dedicate the time and effort necessary to ensure effective representation of each client. Caseload limits should be driven by the number and type of cases being assigned and consistent with the standards set forth below.

(1) Probation Violations and Partial Representations (material witness, remand for disposition following appeal):

(a) One-third (1/3) of a case up to 5 hours.

(b) Every 3-hour increment beyond that an additional one-third (1/3) of a case; e.g. 8 hours = 2/3 of a case, 9-11 hours = 1 full case, 12-13 hours = 1-1/3 case.

(c) "Probation violations" in addition to its ordinary meaning is understood to include assigned representation for non-compliance hearings, community service reviews, diversion revocations and drug court remands.

(2) Exonerations: Zero (0) case credits (they will be absorbed in the "1st Appearances" formula).

(3) Case Closed due to Warrant Status of 60+ days and withdrawals/substitution of counsel after less than 4 hours: One-third (1/3) case.

- (4) Fugitive from Justice:
 - (a) Two-thirds (2/3) case up to first 15 hours
 - (b) Additional 1/3 case for each additional 5-hour increment.
- (5) Drug Court: .20 case loads (30 case credits per year)
- (6) First Appearances: .20 case loads (30 case credits per year)
- (7) Rules of Appeals of Decisions of Courts of Limited Jurisdiction (RALJ):
 - (a) One case up to first 25 hours
 - (b) Additional one third (1/3) case for each additional 8 hour increment.
- (8) Mental Health Court Staffing: Two (2) case credits per year.
- (9) New Cases:
 - (a) One (1) case up to the first 35 hours attorney time
 - (b) Additional case for each extra 10-hour increment.
- (10) Superior Court Adult Caseload General Considerations:
 - (a) Individual attorney case credits should not exceed 150 per year.
 - (b) Representation on a “case” is understood to terminate upon entry of the final disposition and/or the matter being outstanding to warrant for 60 or more days.
 - (c) Final disposition includes judgment and sentence or disposition order (for probation violations), entry into drug court (upon expiration of the “opt-out” period), or 90 days following entry of a pre-trial diversion agreement.
 - (d) Residential Drug Offender Sentencing Alternative (DOSA) cases are to be closed upon completion of the residential treatment portion of the sentence. Motions to revoke residential DOSA, before or after the completion of the residential treatment portion of the sentence, are to be treated as probation violations. Post Not Guilty by Reason of Insanity (NGRI) proceedings outside of Mental Health court staffing will be treated as probation violations. The standards set forth above presume supervisory attorney staffing.

Section 5. Section .050, Superior Court Juvenile Caseload Limits and Types of Cases, is created to read as follows:

The caseload should allow each attorney to dedicate the time and effort necessary to ensure effective representation of each client. Caseload limits should be driven by the number and type of cases being assigned and consistent with the standards set forth below.

- (1) Probation Violations:
 - (a) One-third (1/3) of a case up to 5 hours.
 - (b) Every 3 hour increment beyond an additional one-third (1/3) of a case. e.g. 8 hours = 2/3 of a case, 9-11 hours= 1 full case, 12-13 hours = 1 1/3 case.
- (2) Single count misdemeanor or gross misdemeanor cases (other than domestic violence): Two-thirds (2/3) of a case.
- (3) Serious offenses (defined as any offense that as committed as an adult would count as a “strike”, or for which the State has indicated, or has threatened to seek a manifest in justice, or which carries an allegation of sexual motivation or has a potential sexual offender registration requirement):
 - (a) These cases are presumed to be two (2) case credits, up to the first 25 hours of attorney time,
 - (b) An additional full case credit for every 8-hour increment thereafter e.g. a serious offense for which the attorney spends 30 hours, would count as 3 case credits; 33-41 hours would count as 4 case credits.

- (4) Termination of Diversion: Two-thirds (2/3) of a case credit.
- (5) Partial representations (this includes exonerations, matters in which there was a conflict withdrawal or private substitution of counsel where CPD had less than 3+ hours in the case:
 - (a) One-third (1/3) of a case.
 - (b) An additional 1/3 of a case for each 3-hour increment beyond the initial 3 hours.
- (6) All other cases: Presumptively count as 1 case credit (subject to exceptional circumstances).
- (7) Drug Court Staffing: Equals 12.5 cases based on the premise that 90 percent+ of the drug court participants are referred thereto by the current drug court staff attorney.
- (8) Superior Court Juvenile Caseload General Considerations:
 - (a) Individual attorney case credits should not exceed 250/year.
 - (b) Representation on a "case" is understood to terminate upon entry of the final disposition and up to two (2) disposition review hearings and/or the matter being outstanding to warrant for 60 or more days.
 - (c) Final disposition includes judgment and sentence or disposition order (for probation violations), entry of a deferred disposition, and entry into drug court (once the "opt-out" period has lapsed).
 - (d) Continued representation for disposition review hearings beyond the first two such hearings would be credited at a rate of 1/3 of a case credit for every increment of up to three additional disposition hearings. Post NGRI proceedings will be treated as probation violations. The standards set forth above presume supervisory attorney staffing.

Section 6: Section .060, Amendment, is created to read as follows:

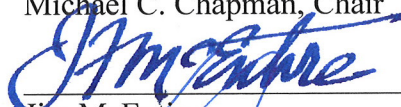
The Board of Clallam County Commissioners shall revisit these standards periodically but not less six months following adoption and annually thereafter.

ADOPTED this seventeenth day of December 2013

BOARD OF CLALLAM COUNTY COMMISSIONERS

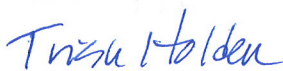


Michael C. Chapman, Chair



Jim McEntire

ATTEST:



Trish Holden, CMC, Clerk of the Board



Howard V. Doherty, Jr.