

**BEFORE THE BOARD OF COUNTY COMMISSIONERS
PACIFIC COUNTY, WASHINGTON
ORDINANCE NO. 159**

**AN ORDINANCE ESTABLISHING STANDARDS FOR THE PROVISION OF
INDIGENT DEFENSE SERVICES IN PACIFIC COUNTY**

WHEREAS, RCW 10.101.030, Indigent Defense Services - Standards, requires the County to adopt standards for the delivery of public defense services; and

WHEREAS, Pacific County adopted Resolution 99-049 on April 13, 1999 thereby instituting public defense standards; and

WHEREAS, Resolution 99-049 was adopted prior to the most recent revision of RCW 10.101.030, and as such, a review and update of County indigent standards is in order; and

WHEREAS, the Washington State Office of Public Defense, having reviewed Resolution No. 99-049, has informed Pacific County that indigent defense standards must be adopted by Ordinance; and

WHEREAS, RCW 10.101.030 specifies that the standards endorsed by the Washington state bar association for the provision of public defense services should serve as guidelines in adopting local standards; and

WHEREAS, the Board of Pacific County Commissioners have evaluated the Washington state bar standards, and have developed Pacific County Indigent Defense Standards that substantially achieve the underlying intent of the state bar standards to provide sufficient, competent defense for indigent defendants in Pacific County; and

WHEREAS, Pacific County should develop standards that are designed to meet the needs of public defense service recipients for sufficient, accessible, high quality defense services, and the need for the criminal justice system to maximize the efficiency and competence of defense service providers; and

WHEREAS, Pacific County recognizes the limitations of local and state resources, and acknowledges the difficulties of providing quality defense services given the unique peculiarities of the Pacific County criminal justice system, and being respectful of the specific context within which the Pacific County legal criminal justice system operates; **NOW, THEREFORE**,

BE IT HEREBY ORDAINED by the Board of County Commissioners, the legislative authority of and for the county of Pacific, State of Washington, in accordance with RCW 36.32.120, **AS FOLLOWS**:

Section 1. Compensation:

Reasonable compensation should be provided to Appointed and/or Contracted Indigent Defense Attorneys commensurate with the number, type, range and complexity of cases assigned, the time and labor required, and the degree of professional experience demanded.

Section 2. Duties and Responsibilities of Counsel:

Indigent defense services should be provided to all clients in a professional, skilled manner consistent with the Rules of Professional Conduct, case law, and applicable court rules defining the duties of counsel and the right of defendants in criminal cases. An Appointed and/or Contracted Indigent Defense Attorney's primary and most fundamental responsibility is to promote and protect the best interest of his/her clients.

Section 3. Caseload Limits and Types of Cases:

The caseload of Appointed and/or Contracted Indigent Defense Attorneys 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 by the Prosecuting Attorney's charging and plea bargaining practices. No precise caseload limits should be mandated due to the vagaries of determining the length of time needed to effectively represent a defendant. It is essential that defense attorneys meet with their clients and with the Prosecuting Attorney's Office as soon after case assignment as practicable, and on a frequent enough basis thereafter. Defense attorneys should engage in good faith plea bargain negotiations consistent with the best interest of their clients.

Assigned counsel that also maintains a private law practice should not be assigned more cases than he or she can reasonably represent given the demands of his or her private practice.

Section 4. Responsibility for Expert Witness Fees and Other Necessary Costs:

The County shall provide sufficient budgetary resources to the respective courts so that each presiding judge may grant reasonable and necessary requests for expert witness and interpreter resources as may be required. Within budgetary and practical restraints, an Appointed and/or Contracted Indigent Defense Attorney shall be free to choose the expert(s) of his/her choosing, and shall not be forced to select experts from a list pre-approved by either the court or the prosecution, provided that the court has determined that such services are both material and necessary to the defense of the case.

Section 5. Administrative Expenses:

An Appointed and/or Contracted Indigent Defense Attorney shall be responsible for paying all of his/her administrative expenses. Such costs shall include, but are not limited to, law libraries, financial accounting, professional liability insurance, case management systems, communications and data processing, office materials and supplies, clerical and paralegal support services, and the cost of

maintenance of an office or work space if so provided. Appointed and/or Contracted Indigent Defense Attorneys should maintain space sufficient to conduct confidential meetings with clients, when necessary and as required.

Section 6. Support Services Coordination:

Appointed and/or Contracted Indigent Defense Attorneys shall communicate with state and/or non-profit paraprofessionals and service providers including social workers, mental health professionals, alcohol and drug treatment and evaluation staff, etc. to the degree necessary to adequately represent their clients' best interest.

Section 7. Reports of Attorney Activity:

Appointed and/or Contracted Indigent Defense Attorneys shall document the number of hours spent on public defense cases and shall provide such information to the County upon request. Appointed and/or Contracted Indigent Defense Attorneys shall limit the number of hours devoted to non-public legal services so that non-public legal services do not interfere with provision of adequate public defense on any given case.

Section 8. Training:

Appointed and/or Contracted Indigent Defense Attorneys should participate in regular training programs. Such training should focus on criminal defense law, including a minimum of seven (7) hours of continuing legal education per year in areas relating to their public defense practice. Relevant areas of training include, but are not limited to, developments in substantive criminal law, criminal procedure, forensic sciences, civil commitment, and trial advocacy skill building.

Section 9. Supervision:

The Board of Pacific County Commissioners shall consult with the applicable judiciary and shall conduct such additional review and investigation as it deems fit and proper to determine that these standards are being upheld by Appointed and Contracted Indigent Defense Attorneys.

Section 10. Monitoring and Evaluation of Attorneys:

Primary monitoring and evaluation of Appointed and/or Contracted Indigent Defense Attorneys shall be done by the judicial officers who observe them in practice. The Board of Pacific County Commissioners shall consult with the judiciary as it sees fit to review the performance of Appointed and/or Contracted Indigent Defense Attorneys, and may undertake such other investigation into the performance and fitness of defense counsel as it considers proper, including review of public defense time and case

records, interviews with public defense clients, witnesses, and court personnel, and review of non-public defense case demands.

Section 11: Substitution of Attorneys or Assignment of Contracts:

Appointed and/or Contracted Indigent Defense Attorneys shall not subcontract with another firm or attorney to provide representation and shall remain directly involved in providing representation, unless the Court waives this provision on a case-by-case basis.

Section 12: Qualifications of Attorneys:

Appointed and/or Contracted Indigent Defense Attorneys must be able to satisfy the minimum requirements for practicing law in Washington State as determined by the Washington State Supreme Court. Appointed and/or Contracted Indigent Defense Attorneys should be assigned cases commensurate with their experience.

Section 13: Disposition of Client Complaints:

Any complaint regarding indigent defense representation received by a Pacific County judicial officer should first be referred to the attorney, firm or agency that provided representation. If the client feels that he or she has not received an adequate response and wishes to pursue the matter further, the client shall submit the complaint in writing to the applicable judicial officer who shall investigate the merits of the complaint, and shall report findings to the client and to the applicable attorney, firm or agency that provided representation.

Section 14: Non-Discrimination:

The County and all Appointed and/or Contracted Indigent Defense Attorneys shall comply with all applicable federal, state and local non-discrimination requirements. The County and Appointed and/or Contracted Indigent Defense Attorneys shall not discriminate on the grounds of race, color, religion, national origin, age, marital status, sex, sexual orientation, or disability with regard to hiring practices or to representation of clients.

Section 15: Cause For Termination or Removal of Appointed and/or Contracted Indigent Defense Attorney(s):

Contracts for securing Public Defense Attorney services shall include a clause specifying the circumstances under which the contract(s) may be terminated. Causes for termination of an Appointed and/or Contracted Indigent Defense Attorney include, but are not limited to, failure to render adequate representation to a client, willful disregard of the rights and best interest of the client, violation of the Rules of Professional Conduct, willful disregard of the Public Indigent Defense Standards established herein,

and/or any such conduct detrimental to the administration of justice. With the exception of termination of contracts and/or appointments resulting from a budget shortfall, the Board of Pacific County Commissioners shall not terminate the services of a Contracted Indigent Defense Attorney without the concurrence of the applicable District and/or Superior Court judge(s). When the Board of Pacific County Commissioners terminates an Indigent Defense Contract due to a budget shortfall, the Board shall provide a minimum of sixty (60) days written notice of such termination.

Section 16: Guidelines for Awarding Public Defense Appointments and Contracts:

The Board of Pacific County Commissioners should award contracts for indigent defense services, and District or Superior Court judges should appoint an Appointed Indigent Defense Attorney, only after determining that the attorney or firm selected can meet accepted professional standards and comply with all standards and requirements as set forth herein. The recruitment and selection of Appointed and/or Contracted Indigent Defense Attorneys shall be authorized by the Board of Pacific County Commissioners and facilitated by the applicable judicial officer(s).

The Pacific County Prosecuting Attorney and/or his/her designees, the Pacific County Sheriff and/or his/her designees, and/or any other law enforcement officer shall not select the attorneys that provide indigent defense services, nor shall they participate in negotiations of contracts for such services.

Section 17: Severability:

In the event that any provision of this Ordinance or its application to any person or circumstance shall be for any reason declared invalid or held unconstitutional by a court of competent jurisdiction, the remainder of the Ordinance or the application of the provision to other persons or circumstances is not affected and shall continue in full force and effect.

Section 18. Effective Date:

This Ordinance shall be of full force and effect immediately upon its passage.

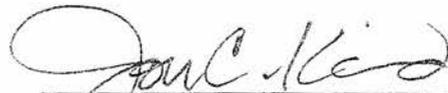
PASSED by the Board of Pacific County Commissioners meeting in regular session at South Bend, Washington, the 24th day of February, 2009 by the following vote 3 YEA, 0 NAY, 0 ABSTAIN and 0 ABSENT; then signed by its membership and attested to by its Clerk in authorization of such passage.

APPROVED AS TO FORM:



David J. Burke, Prosecuting Attorney

**BOARD OF COUNTY COMMISSIONERS
PACIFIC COUNTY, WASHINGTON**

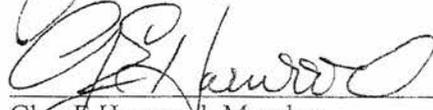


Jon Kaino, Chairperson

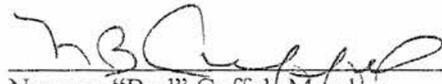
ATTEST:



Kathy Noren, Clerk of the Board



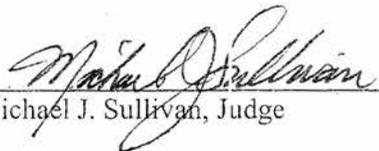
Clay E Harwood, Member



Norman "Bud" Cuffel, Member

ACKNOWLEDGED BY:

**PACIFIC COUNTY
SUPERIOR COURT**



Michael J. Sullivan, Judge

**PACIFIC COUNTY
NORTH DISTRICT COURT**



Betsy Penoyar, Judge

**PACIFIC COUNTY
SOUTH DISTRICT COURT**



Doug Goelz, Judge