

MASON COUNTY INDIGENT DEFENSE STANDARDS  
DISTRICT COURT

Ordinance No. 140-08

WHEREAS, the Washington Legislature mandated in RCW 10.101.030 that counties adopt standards for the delivery of public defense services;

BE IT RESOLVED that the Board of County Commissioners for Mason County hereby adopts the following Indigent Defense Standards for District Court:

**STANDARD 1: CONTRACT**

All indigent defense services shall be pursuant to a written contract between the indigent defense attorneys and Mason County District Court until such time as the County Commissioners assume the role as contractor.

**STANDARD 2: COMPENSATION**

Indigent defense attorneys for Mason County District Court shall be compensated in accordance with the contract executed by the respective parties.

**STANDARD 3: DUTIES AND RESPONSIBILITY OF COUNSEL**

All indigent defense contracts shall require that defense services be provided to all clients in a professional, skilled manner consistent with standards set forth by the American Bar Association, applicable Washington State Bar Association standards, the Rules of Professional Conduct, case law and applicable court rules defining the duties of counsel and the rights of defendants in criminal cases. Counsel's primary and most fundamental responsibility is to advise the client of, and protect his/her legal rights.

**STANDARD 4: CASELOAD LIMITS**

Caseloads should allow each attorney to give each client the time and effort necessary to ensure effective representation. No attorney or firm rendering indigent defense services shall accept workloads that interfere with the rendering of reasonable and quality representation. An attorney should not allow his or her private law practice to interfere with the competent representation of indigent defendants.

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The caseload standards adopted by the Washington State Bar Association, Washington Defender Association and/or American Bar Association shall be considered as guidelines. A case is defined as the filing of a document wherein a person is designated a defendant or respondent and an attorney is appointed by the court. Adjustments may be made wherein a full case is not attributed in the following non-exclusive circumstances:

A bench warrant is issued before a case is resolved;  
Probation violation, extradition, restitution hearings, etc., that do not require a full-blown hearing;  
Diversions, continuances for dismissal, misdemeanor compromises or similar dispositions;  
Drug court, disposition to a re-licensing program, deferred prosecution or other similar procedure;  
Early dismissal by a prosecutor based on lack of evidence or standard plea offers, based on the prosecutor's charging and plea bargaining practices or other reasons that dispose of a case without extensive litigation; or  
Withdrawal of counsel at an early stage of the case, due to conflict of interest or other reasons.

Attorneys providing indigent defense services, judicial officers and county commissioners should regularly monitor caseloads, including private practice, and attorneys on contract shall submit monthly reports. The above-mentioned parties should not hesitate to confer and craft a remedy for dealing with caseload issues that materially affect representation of an indigent client. Excessive continuances, missed court dates, client complaints, etc. shall be addressed as soon as practicable.

#### **STANDARD 5: MALPRACTICE INSURANCE**

As part of the contract executed between the respective parties, District Court contract counsel shall at all times maintain errors and omissions liability insurance coverage as follows:

1. **Adult Contracts.** Limits of no less than \$250,000.00 per occurrence with a \$500,000.00 aggregate.

#### **STANDARD 6: SERVICES OTHER THAN COUNSEL**

Reasonable compensation for expert witnesses, investigators and other services necessary for an adequate preparation and presentation of the defense case shall be provided at public expense for indigent defendants. Request for expert services shall be made through an ex parte motion.

#### **STANDARD 7: ADMINISTRATIVE EXPENSES**

Contract counsel shall be responsible for paying all administrative expenses of their office or firm or other support services not otherwise provided for in these standards or by contract.

#### **STANDARD 8: REPORTS OF ATTORNEY ACTIVITY AND VOUCHERS**

As part of the contract executed between the respective parties, District Court contract counsel shall be required to provide the Court Administrator with a monthly reporting of hours spent on the contract.

The District Court will track the monthly assignments. The Court Administrator shall maintain a record that shows the number of new appointments assigned to each contract attorney per month. If the standard of 38 new misdemeanor appointments per month is exceeded, the court should assign new appointments to off contract counsel.

The Court Administrator shall submit a standardized voucher form each month for payment to District Court contract counsel. Contract payments shall be made on the last workday of each month.

On cases for which attorneys are paid an hourly rate, attorneys shall submit a detailed statement of time and expenses incurred to the Court Administrator who will prepare and submit a voucher for payment to the Mason County Auditor.

#### **STANDARD 9: TRAINING**

Attorneys providing indigent defense services should participate in regular training programs on criminal defense law, including a minimum of seven hours of continuing legal education annually in areas relating to their indigent defense practice.

Every attorney providing counsel to indigent accused should take the opportunity to attend courses that foster trial advocacy skills and to review professional publications and tapes.

#### **STANDARD 10: MONITORING AND EVALUATION OF ATTORNEYS**

The Court should establish a procedure for systematic monitoring and evaluation of attorney performance based upon written criteria. Efforts should include a review of time and caseload records and monitoring contract compliance.

#### **STANDARD 11: SUBSTITUTION OF ATTORNEYS OR ASSIGNMENT OF CONTRACT**

Contract attorneys should not sub-contract with another firm or attorney to provide representation and should remain directly involved



in the provision of representation. All contracts are directly between the Court and the individual contract attorney, regardless of firm affiliation, unless otherwise agreed upon in the contract, which ensures that they meet minimum qualifications. The contract should address procedures for continuing representation of clients upon conclusion of the contract. Alternate or conflict counsel should be available for substitution in conflict situations at no cost to the counsel declaring the conflict.

**STANDARD 12: LIMITATION ON PRIVATE PRACTICE OF CONTRACT ATTORNEYS**

An attorney or firm rendering indigent defense services shall not allow his or her private practice to diminish his or her ability to represent indigent defendants.

**STANDARD 13: QUALIFICATION OF ATTORNEYS**

1. In order to ensure that indigent accused receive effective assistance of counsel to which they are constitutionally entitled, attorneys providing defense services must meet the following minimum professional qualifications:
  - 1.1 Satisfy the minimum requirements for practicing law in Washington as determined by the Washington Supreme Court; and
  - 1.2 Complete the hours of continuing legal education within each calendar year as set forth in Standard 10.

**STANDARD 14: DISPOSITION OF CLIENT COMPLAINTS**

The legal representation plan shall include a method to respond promptly to client complaints. Complaints should first be directed to the attorney, firm or agency, which provided representation. If the client feels that he or she has not received an adequate response, the court should designate a person or agency to evaluate the legitimacy of complaints and to follow up meritorious ones. The complaining clients should be informed as to the disposition of his or her complaint within one week.

**STANDARD 15: CAUSE FOR TERMINATION OR REMOVAL OF ATTORNEY**

Contracts for defense services may be terminated as follows:

- (a) Immediate termination should the attorney become disbarred or their license to practice law in the State of Washington suspended; or
- (b) By the court upon thirty (30) days written

notification to the attorneys; or

- (c) By the attorneys upon sixty (60) days written notification to the court; provided, however, that except if terminated under subsection (a) above, the attorneys shall be required to complete the cases already assigned to him or her in accordance with the contract.

**STANDARD 16 NON-DISCRIMINATION**

Neither the Court, in its selection of an attorney, firm or agency to provide indigent defense representation of clients, nor the attorneys selected, in their hiring practices or in their representation of clients, shall discriminate on the grounds of race, color, religion, national origin, age, marital status, sex, sexual orientation or handicap. Both the Court and contract counsel shall comply with all federal, state and non-discrimination requirements.

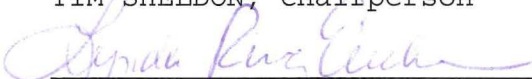
**STANDARD 17 GUIDELINES FOR AWARDING DEFENSE CONTRACTS**

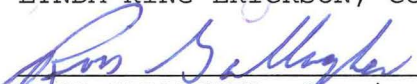
The Court shall award contracts for indigent defense services only after determining that the attorney can meet accepted professional standards. Under no circumstances shall a contract be awarded on the basis of cost alone. Attorneys applying for contracts must demonstrate their ability to meet these standards. Neither prosecutors nor law enforcement officers shall be involved in the selection of attorneys who will provide indigent defense services.

ADOPTED this 23<sup>rd</sup> day of December, 2008.

BOARD OF COUNTY COMMISSIONERS  
FOR MASON COUNTY, WASHINGTON

  
\_\_\_\_\_  
TIM SHELTON, Chairperson

  
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LYNDA RING ERICKSON, Commissioner

  
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ROSS GALLAGHER, Commissioner

ATTEST:

  
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Clerk of the Board

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