

CLALLAM PUBLIC DEFENDER

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October 22, 2017

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Mr. Jim Jones, Administrator
Board of Clallam Co. Commissioners
Clallam Co. Commissioner's Office
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CLALLAM CO. COMMISSIONERS
OCT 23 2017
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Re: Indigent Public Defense

Dear Mr. Jones and Board of Commissioners

We are writing to respond to the comments that Clallam Public Defender has been unwilling to "negotiate" with the County over the contract for indigent of public defense services. As you may or may not know or recall, the original RFP from the County asked for a proposal based upon a case load of 2,000 cases in District Court during each year of the proposed five (5) year contract, beginning in January, 2018. This RFP was based, in part, upon the recommendations of the 7 person Ad Hoc Panel (aka "Task Force") appointed by the County to make recommendations on the best way for the County to meet its requirement to provide indigent public defense services. As you know, CPD was the only respondent to this request for proposals.

When the CPD response was reviewed by the County, it determined that it was too expensive. The County then asked CPD to reduce its proposal to limit it to services based upon a limit of 1,600 cases per year. This was done. As you know, under public defense attorney "case load" requirements, a defense attorney is limited to no more than 400 cases per year. This rule was adopted in light of the substantial burden that was being placed on public defenders and the adverse impact it was having on the quality of representation and the ability to provide "effective service of counsel" as required by law. At 1,600 cases, the current RFP would require four (4) full time defense attorneys. CPD has the ability to staff this requirement although it will actually require 4.3 attorneys due to simultaneous court hearings in District Courts 1 and 2.

There has been discussion of a potential change in the way District Court handles cases which are filed by law enforcement. Under case load requirements, a filing is considered a "case" subject to case load restrictions once the public defender is appointed to represent the defendant. There has been some suggestion that a change in the procedures used in District Court 1 (Port Angeles) could result in law enforcement filed cases being dismissed prior to appointment of a CPD attorney to represent the accused. Should this happen, the result would be fewer "cases" being filed, at least for the purposes of counting filings impacting the public

defender's case load limits. While there is a difference of opinion as to how many law enforcement filed cases (or other cases, for that matter) will be dismissed prior to appointment of the public defender, CPD is willing to work with the County should there be a substantial reduction below the number of cases (1,600) estimated in the RFP.

At the same time, it appears that there may have been a perceived inability or unwillingness on the part of CPD to enter into an indigent defense agreement that is based upon "by the case" compensation. Any such perception is an unfortunate and inaccurate. The County has never proposed and CPD has never rejected a "by the case" compensation model. All prior requests for proposals have been premised on what the County believed to be reasonably firm caseload projections. CPD remains open to any discussion that meaningfully addresses the possibility of significant reductions in anticipated District Court caseloads.

In summary, we recognize the importance of coming up with an indigent defense contract which provides reasonable compensation for services provided while at the same time reducing exposure to unnecessary expense. We firmly believe that the best model for efficiency and cost reduction is one which provides representation by the same entity in both Superior and District Courts. That is something that Clallam Public Defender has now accomplished successfully for over forty (40) years. We look forward to continuing to provide these services for many years to come.

Very truly yours

CLALLAM PUBLIC DEFENDER



HARRY D. GASNICK
Director



DAVID V. JOHNSON
Chair, Board of Directors