

SUPERIOR COURT OF THE STATE OF WASHINGTON

FOR ISLAND COUNTY

Law & Justice Facility, 101 NE 6th St, PO Box 5000, Coupeville WA 98239-5000
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MEMORANDUM

ALAN R. HANCOCK
Judge
VICKIE I. CHURCHILL
Judge
MICHAEL MERRINGER
Court Administrator
SHERRY CAMERON
Court Manager

TO: Hon. John Dean, Hon. Angie Homola, Hon. Helen Price Johnson

FROM: Alan R. Hancock, Vickie I. Churchill, Superior Court Judges

DATE: September 3, 2010

SUBJ: Island County Superior Court Budget for 2011

1. Superior Court has had, by far, the lowest rate of increase of any county law and justice agency over the last twenty years and more. Over the last twenty years, superior court has had an increase of only one (1) employee. By contrast, other law and justice agencies have had substantial increases in employees. Superior Court voluntarily decreased its court administrator position to one-third of full-time in 2006, resulting in substantial savings to the county. Our court administrator, Mike Merringer, also is the administrator of Juvenile and Family Court Services and the administrator of the Juvenile Detention Facility.
2. Superior Court's caseload has almost doubled in the last twenty years. Twenty years ago or so, the superior court caseload for Island County was approximately 1500 cases per year. Based on the first six months of 2010, the caseload for 2010 is projected to be just under 3000 cases.
3. Superior Court has two judges, the same number that it had in 1977.
4. Superior Court lost its court commissioner last year. Superior Court received approval for its one-day-per-week court commissioner in the 1990's. This position was cut in last year's budget. As a result, the judges are now handling the court commissioner's duties as well as all of their other work.
5. Historically, Superior Court has handled all jury management functions, despite the fact that it is the clerk's responsibility to summons jurors under state law. It is the court clerk's responsibility to summons jurors and notify persons selected for jury duty. RCW 2.36.095. Yet Superior Court has performed this function for the clerk for well over twenty years.
6. Superior Court handles jury management functions for District Court. In 1988, the legislature authorized the judges of the superior and district courts to enter

into agreements whereby superior court would perform certain jury management activities for district court. Superior court voluntarily took over such activities for district court in 1989, and has performed such functions ever since.

7. Superior Court recently took over all review of requests for approval of bail bond companies to operate in Island County. Historically, the prosecutor's office reviewed and made recommendations to the court on requests from bail bond companies to be approved to operate in Island County, and such review is an executive function. Nevertheless, the prosecutor's office recently informed us that it would no longer perform these reviews. Court Administrator Mike Merringer has taken on this task, though effectively he does not have the time to do so.
8. In contrast to other counties, Judges Churchill and Hancock have no judicial assistants, clerks, bailiffs, or clerical staff assigned to them. In a number of other counties, each superior court judge has an assigned clerk/judicial assistant/bailiff who does legal research for the judge, prepares legal memoranda for the judge, handles the judge's correspondence, and acts as the judge's bailiff in court on a daily basis. By contrast, in Island County, neither Judge Churchill nor Judge Hancock has any such help. Judges Churchill and Hancock do all of their own legal research, and type their own decisions and correspondence. Neither judge has any staff assigned to them. They handle all of their work themselves.
9. By law, Island County Superior Court must have two court reporters. Pursuant to RCW 2.32.180, Island County is required by law to have two court reporters, one assigned to each superior court judge. Island County does, indeed, have a court reporter assigned to each of the two superior court judges. The law would not permit the county to cut either of the court reporter positions.
10. Judge Hancock earned \$9,702.58 for the county in 2010 by serving as superior court judge for San Juan County following the death of Judge John Linde. Following the death of Judge Linde on December 6, 2009, Judge Hancock was appointed by the Washington Supreme Court to serve as superior court judge for San Juan County until the governor could appoint his successor. He served in this capacity until March 22, 2010, while handling all of his other duties for Island County. San Juan County paid Island County \$9,702.58 for Judge Hancock's service. This was accomplished at no additional cost to Island County.
11. Superior Court does not have the ability to decrease its workload. In contrast to other departments and agencies of county government, the superior and district courts do not have the ability to decrease their workloads. The courts are legally and ethically obligated to hear and decide the cases that are filed. The Code of Judicial Conduct provides that the court's judicial duties take precedence over all other activities, and that the court must promptly dispose of the business of the court. It is not an option for the courts to simply not hear certain cases. In contrast, the prosecutor's office has advised us that it will longer be providing attorneys in certain kinds of cases. (See, for example, Prosecuting Attorney Greg Banks's memorandum, attached hereto, advising that he will no longer prosecute truancy cases in our court.) The sheriff's office has the ability to cut back on its services and not investigate certain kinds of activities. Superior Court does not have any such option. We must hear and decide the cases that are filed in the

court. (It should also be noted that if the sheriff's office and the prosecutor's office decide not to investigate/prosecute certain kinds of cases because of budget cuts, it is highly likely that this will involve misdemeanors, the least serious kinds of cases. Most all misdemeanor cases are filed in district court. All felony cases must be filed in superior court, and thus our workload will not likely be lessened at all.)

12. Superior Court has been proactive in doing more with less. As noted above, superior court has the same number of judges as it had in 1977, i.e., two. Yet our caseload has doubled in the last twenty years. We have been able to handle this increase, in part, by proactively establishing programs to resolve cases short of trial. Examples of such programs are mandatory mediation and parenting seminars in family law cases, settlement conferences, and our courthouse facilitator. Thus, again, we have been able to do more, with less, because of our own concerted efforts.
13. The Board of County Commissioners is required to provide adequate funding for the judicial branch of county government. Superior Court is a separate and independent branch of county government. It is not part of either the executive or the legislative branch of government. The court has no ability to raise and allocate funding for its operations, but must rely on the executive branch, i.e., the board of county commissioners, to adequately fund court operations. We have a constitutional duty to insure that the courts are adequately funded. We intend to carry out our constitutional duty.
14. Island County Superior Court has historically been budget-conscious on a voluntary basis. It should not be subject to the same, generalized, across-the-board cuts as other departments and agencies of county government. If Superior Court is to be subjected to the same across-the-board cuts as other departments and agencies, what incentive is there for the court, or any department or branch of county government for that matter, to engage in voluntary cost-cutting measures, as superior court has done? If such across-the-board cuts are to be imposed, what will prevent county departments and agencies from "padding" their budgets so that when cuts come in lean economic times, they can function adequately with the excess? The Board should acknowledge Superior Court's long-standing record of cost-cutting and service to other agencies and decline to cut its budget further.
15. Superior Court cannot carry out its constitutional function as the judicial branch of county government if its budget is cut further. Superior Court has two judges, two court reporters, a one-third FTE court administrator, a court manager, an assistant court manager, and a .75 FTE jury manager (who, as noted previously, performs jury management for both superior and district and handles the clerk's duties as well). Assume that the court manager is on vacation and the assistant court manager is ill. Assume, further, that the two judges and court reporters are in court, as they usually are. Assume, further, that the .75 jury manager has completed her allotted hours and has gone home. Who is going to answer the phone and handle walk-up citizen inquiries, not to mention the other normal and usual duties of the office? There would be no one to do so. We are already down

to the bare minimum number of employees and cannot sustain any further cuts to court operations and provide a minimum level of service.

ISLAND COUNTY PROSECUTING ATTORNEY
GREGORY M. BANKS

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September 1, 2010

TO: Attached Distribution List

RE: Termination of Prosecutor's Participation in Compulsory School Attendance Hearings

Dear School Officials and Others,

As you are no doubt aware, Island County has been making drastic cuts to all service areas of county government. Law and justice functions have been hit particularly hard. My office has lost two deputy prosecutors, a paralegal, and suffered a reduction in hours of the remaining paralegal staff in the last 18 months. In 2011, it appears we may lose two additional positions. All this from an office that has been historically understaffed to meet the criminal and juvenile caseloads we must handle.

Since January, we have kept a laid-off deputy prosecutor funded by federal stimulus funds. Those funds will run out on September 10, and Peter Simpson, our juvenile deputy prosecutor who has been handling truancy matters in juvenile court, will cease employment with us. That will require me to assign a major crimes deputy prosecutor to handle the juvenile criminal cases. In order to accommodate this redistribution of a growing number of cases to an ever-shrinking number of attorneys, we have had to eliminate certain caseloads. Regrettably, one of the areas we will no longer prosecute is the compulsory school attendance caseload.

School Districts are authorized to file truancy petitions under RCW 28A.225.030, and be represented by non-attorney staff members in truancy hearings under RCW 28A.225.035(10). Our office has been preparing summonses for initial hearings, and appearing at those hearings to obtain orders to abate truancy. In addition, for those pupils who do not comply with their attendance agreements, we have conducted contempt hearings. I expect that Cathy Lange, the Truancy Counselor for Island County Juvenile Court Services, will continue to manage truancy interventions, as she has done for over ten years. However, rather than rely on my office to conduct court appearances, she will need to turn to the school districts for those steps in the truancy abatement process.

I apologize for the short notice of this change in our operation. Recent personnel changes accelerated our layoff date. Shifts in our criminal caseload made the elimination of the truancy caseload (among others) the best operational decision for us. It allows us to focus our attorney resources on our primary mission of criminal prosecution. Because of the failure of the county's

property tax levy lid lift, it is likely we will lose additional staff in January, requiring the elimination of some criminal cases from our workload. I trust you can understand that precarious position we are in. We would not take this step if it were not absolutely necessary.

Please feel free to call me if you have questions or need assistance. We intend to work closely with Cathy Lange to assist in procedural matters, as this work is transitioned from our offices to your schools. We would be happy to share with your staff the "predicate questions" required to obtain an order to abate truancy, and our forms for initiating cases and scheduling hearings.

Sincerely,



Gregory M. Banks
Island County Prosecuting Attorney

ISLAND COUNTY PROSECUTING ATTORNEY
GREGORY M. BANKS

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Michele M. Graaff, *Office Administrator*

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CC: Honorable Alan R. Hancock, Island County Superior Court
Honorable Vickie I. Churchill, Island County Superior Court
Board of Island County Commissioners
✓ Michael Merringer, Director, Juvenile and Family Court Services
Cathy Lange, BECCA Coordinator, Juvenile and Family Court Services