

APPENDIX C

SURVEY OF ELECTED PROSECUTORS

WSBA DEATH PENALTY STUDY
SURVEY OF ELECTED PROSECUTORS

1. Name of your county: _____
2. Please provide the annual salaries of the attorneys on your staff who have experience in trying an aggravated first-degree murder case and to whom you may assign an aggravated first-degree murder case. (Exclude personnel who may have such past experience but now work in positions where they would not be asked to try an aggravated first-degree murder case.)

Attorney 1 \$ _____
Attorney 2 \$ _____
Attorney 3 \$ _____
Attorney 4 \$ _____

(Add more pages if necessary).

If you have no such attorneys currently on staff, answer "N/A".

3. Please provide the annual salary of attorneys on your staff with experience in handling an appeal or collateral attack of a death penalty conviction.

Attorney 1 \$ _____
Attorney 2 \$ _____

4. What fringe benefits do attorneys in your office receive?

_____ Medical _____ Dental _____ Disability Ins. _____ Pension
_____ Medical Ins. for the family _____ Other _____

5. When your office assigns a capital case to an attorney at the trial level, is the attorney responsible for other cases while working on the capital case?

Yes _____ No _____

6. What is your best estimate of the cost difference to your office between trying a case to verdict as a capital case and trying it to verdict as a non-capital case, including costs for attorney and support staff compensation, experts, consultants and overhead?

\$ _____

7. In your opinion, what is a fair and reasonable salary for a death penalty qualified attorney working for a non-profit or governmental public defender agency?

\$ _____ per year

8. In your opinion, what is a fair and reasonable hourly rate of compensation for a private attorney in a death penalty case:

- (a) Who is qualified under SPCR2 to serve as lead counsel?
\$_____ per hour

- (b) Who is qualified to serve as co-counsel?
\$_____ per hour

**DEATH PENALTY SURVEY
ELECTED PROSECUTORS
last update 3/21/06**

County	Annual Salary Trial Atty. 1	Annual Salary Trial Atty. 2	Annual Salary Trial Atty. 3	Annual Salary Trial Atty. 4	Annual Salary App Atty. 1	Annual Salary App Atty. 2	Fringe Benefits	Other cases while working on capital case?	Cost diff. between capital / non-capital case?	Fair annual salary for public DP qual. Atty	Fair hourly rate for private DP qual. Atty	Fair hourly rate for private co-counsel
<100,000	see attached	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a
<100,000	97000 -- elected prosecutor -- 20+ years experience	n/a	n/a	n/a	same as above	n/a	medical, dental, pension	yes	no difference unless experts are hired -- we have not tried a death penalty case	depends on the area	see attached	see attached
<100,000	n/a	n/a	n/a	n/a	\$72,000	n/a	medical (incl. family), dental, pension	yes	no recent experience/or basis on which to make such an estimate	see attached	n/a	n/a
<100,000	n/a	n/a	n/a	n/a	\$60,000	\$37,000	medical, dental, pension	n/a	?	?	?	?
<100,000	n/a	n/a	n/a	n/a	n/a	n/a	medical, dental, pension	yes	n/a	\$80,000	\$150	\$125

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<100,000	\$90,000	\$72,000	n/a	n/a	\$72,000	n/a	pension	yes	depends on a lot of variables	\$92,000	see attached	see attached
<100,000	\$87,000	\$84,000	n/a	n/a	n/a	n/a	medical, dental, pension	yes	\$45,000	\$60,000+	\$65	\$50
<100,000	\$51,300	n/a	n/a	n/a	n/a	n/a	medical, dental, pension	yes -- we only have me and 1 felony deputy	have never had such experience	n/a	n/a	n/a
<100,000	\$85,000 elected	\$70,000 chief criminal	n/a	n/a	n/a	n/a	medical, dental, pension	probably	\$30,000	see attached	see attached	see attached
<100,000	\$63,431.60	n/a	n/a	n/a	\$63,431.60	\$75/hr w/o benefits	medical, dental, pension, life insurance	yes	n/a	see attached	set by court	set by court
<100,000	n/a	n/a	n/a	n/a	n/a	n/a	medical, dental, pension	see attached	n/a	\$85 - 90,000	\$250	\$175

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<100,000	n/a	n/a	n/a	n/a	n/a	n/a	medical (incl. family), dental, pension	yes	see attached	\$150 - \$175 -- see attached	\$125 - \$150 -- see attached	
<100,000	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	n/a	see attached		
<100,000	n/a	n/a	n/a	n/a	n/a	n/a	medical, pension	n/a	n/a	frankly, I don't know	n/a	n/a
<100,000	\$82,000	n/a	n/a	n/a	n/a	n/a	medical, dental, pension	yes	n/a	same as prosecutor	same as prosecutor	same as prosecutor
<100,000	myself only	n/a	n/a	n/a	myself only	n/a	medical (incl. family), dental, pension	yes	have not tried capital case to verdict in Washington	\$75,000	\$100	\$65
<100,000	n/a	n/a	n/a	n/a	n/a	n/a	medical, dental, PERS	yes	n/a	\$80,000	\$80	\$70

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<100,000	n/a	n/a	n/a	n/a	n/a	n/a	medical, dental, pension	yes	\$100,000	\$75,000	\$125	\$125
<100,000	n/a	n/a	n/a	n/a	n/a	n/a	medical, dental, small pension	they would be	?	\$60,000	see attached	see attached
100,000 - 400,000	\$122,000	n/a	n/a	n/a	\$122,000	n/a	medical, dental, pension	yes	n/a	\$91,000 - \$103,000	\$135	\$100
100,000 - 400,000	\$128,000	\$80,000	\$79,000	\$102,000	\$105,000	n/a	medical (incl. family), dental, disability, pension	yes	\$300,000 - \$500,000	\$80,000	n/a	n/a
100,000 - 400,000	\$105,996.80	\$87,193.60	\$83,033.60	\$79,081.60	\$87,193.60	n/a	medical (incl. family), dental, disability, pension	no -- attorneys generally have caseload up until trial	at least quadruple -- see attached	\$75 - 100,000+	\$100	\$100

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100,000 - 400,000	\$85,000	n/a	n/a	n/a	\$75,000	n/a	medical (incl. family), dental, pension	yes	\$50,000	\$75,000	\$150	\$125
100,000 - 400,000	\$107,980	\$107,979	\$100,856	\$107,980	\$107,980	\$107,980	medical (incl. family), dental, disability, pension	yes	\$1,000,000	\$107,980	\$300	\$200
100,000 - 400,000	\$93,356	\$82,945	\$73,641	n/a	n/a	n/a	medical, dental, pension	yes	\$50,000	\$75,000 full time -- not just 1 case at a time	\$60 -- see attached	\$45 -- see attached
>400,000	\$122,000	\$118,000	\$110,800	\$110,800	\$122,000	\$118,000	medical (incl. family), dental, disability, pension	yes	n/a	\$122,000	\$125,000/yr	\$90 - 110,000/yr

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>400,000	\$113,840	\$108,688	\$100,978	\$100,978	\$100,978	\$93,359	medical (incl. family), dental, pension	yes	\$25,000	\$90,000 (depends on the county and cost of living)	\$60	\$45
>400,000	\$115,000	\$115,000	\$110,000	\$105,000	\$115,000	\$115,000	medical (incl. family), dental, disability, pension	yes, at first	\$300,000 - \$500,000	\$100,000	\$150	\$150
>400,000	\$91,270	n/a	n/a	n/a	\$80,961	n/a	medical (incl. family), dental, disability, pension	yes	\$30,000	\$80,000	\$200	\$150

PROSECUTING ATTORNEY DEATH PENALTY SURVEY COMMENTS
(number is population of county)

5. When your office assigns a capital case to an attorney at the trial level, is the attorney responsible for other cases while working on the capital case?

<100,000: N/A but yes. If presented with the situation, minimal case assignments would be necessary but not preferred.

6. What is your best estimate of the cost difference to your office between trying a case to verdict as a capital case and trying it to verdict as a non-capital case, including costs for attorney and support staff compensation, experts, consultants and overhead?

100,000 – 400,000: Resources, time and expenses involved in prosecuting a capital murder versus non-capital would at least quadruple.

<100,000: The cost for experts should be the same. The cost for atty & staff time would depend on the additional time required which is specific to each case.

7. In your opinion, what is a fair and reasonable salary for a death penalty qualified attorney working for a non-profit or governmental public defender agency?

<100,000: Not more than the prosecutor assigned to try such. I do know that in the last death penalty case in this county, the judge not only appointed additional outside counsel at \$250/hr to assist the PD trying the case but ordered the county to pay the PD an additional \$150/hr because of the stress involved. There was one prosecutor assigned to the case. This was 1993.

<100,000: \$55,000 - 70,000; no more or less than a prosecutor, even though the prosecutor will always handle more cases than defense counsel

<100,000: Set by court who compensates defender via contract on hourly basis.

<100,000: A death penalty qualified attorney shouldn't make any more than the elected prosecutor trying the case (I make \$70 K per year).

8. In your opinion, what is a fair and reasonable hourly rate of compensation for a private attorney in a death penalty case:

(a) Who is qualified under SPCR2 to serve as lead counsel?

(b) Who is qualified to serve as co-counsel?

<100,000: I have not been in private practice for 20+ years. I'm not qualified to respond.

<100,000: I do not believe hourly rate is a good judge of value, without a cap on hours – flat fee is a better judge of value

<100,000: Are there public defenders who handle? If yes, then should not pay a private attorney more than 50% more. They take cases not for \$ but for ego, for fame or based upon commitment. If we have decided that only highly paid private attorneys can handle these cases, then hold on to your wallet.

<100,000: Standard atty rate should apply to defense counsel regardless of the subject of the criminal case (i. e., death penalty v. non-death penalty).

<100,000: Hourly rate shouldn't be any more than the equivalent hourly rate that I make.

<100,000: Question unclear. If assume no other payment to cover overhead, maybe \$40 - 50/hour, but that is a wild guess – would want more info..

100,000 – 400,000: (a) \$60.00 – that is more than the highest paid deputy prosecutor's salary & benefits in my office. (b) \$45.00 – that is more than the lowest paid deputy in my office that I would assign a capital case to as lead attorney.

Other comments:

<100,000: I do not believe our county could provide information helpful to your survey. Adams County is a small fifth (5th) class county. This office is staffed by one elected prosecuting attorney and two (2) to three (3) deputy prosecuting attorneys, depending on staffing levels. It has been at least in excess of thirty (30) years, if not longer, since this office has encountered a potential aggravated first-degree murder matter. It is also typical for our office to be staffed with relatively inexperienced attorneys fresh from law school. This is due to our rural location, and poor salaries paid for the positions. Accordingly, I do not believe any information, which we could provide, would prove helpful to the results of your survey.

<100,000: A first degree aggravated murder case has not been filed in our county during the time I have practiced here (1990 to the present).