



Pierce County

Performance Audits

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To: Performance Audit Committee

From: Matt Temmel, Performance Audit Coordinator *MT*

Re: Amounts Ordered for Public Defense "Recoupment"

The 2010 performance audit work program includes updating a 2003 analysis of public defense "recoupment" ordered by the courts at time of sentencing. The 2003 analysis, conducted by performance audit staff in cooperation with the Department of Assigned Counsel and the Prosecuting Attorney, covered several issues related to legal financial obligations (LFOs), such as the amount of public defense recoupment ordered by the courts, the amounts actually collected, other types of LFOs, and revising the Judgment and Sentence form used by Superior Court to include current information on LFOs.¹

In 2009, Prosecuting Attorney Mark Lindquist requested an update of the 2003 analysis with regard to the amounts that are ordered for public defense recoupment. In September 2009, the Performance Audit Committee approved adding this topic to the work program. We worked briefly on the issue in March 2010, with an objective of analyzing costs in the Department of Assigned Counsel to provide a basis for recommending new standard amounts for recoupment.

The cost analysis was not completed, however, because Superior Court has taken action on its own to raise the standard amounts.²

Judge Chushcoff, the presiding judge, assigned the issue to the Criminal PLUS committee of Superior Court, which recently recommended the following increases in the standard amounts for public defense recoupment.

¹ The 2003 analysis is posted at <http://www.co.pierce.wa.us/xml/abtus/plans/perf-audit/reports/MemoonrecoupmentOctober272003-revised.pdf>

² Strictly speaking, the "standard amounts" are "advisory amounts," since each judge is free to make the decision about whether recoupment should be ordered and in what amount. However, the evidence is clear that judges order the same amount in the vast majority of convictions – there is no difference between the standard and advisory amounts.



Standard Amounts Ordered for Public Defense Recoupment

| <i>Type of Criminal Case in Superior Court</i> | <i>2003 Standard Amount</i> | <i>2010 Superior Court Recommendation</i> |
|--|-----------------------------|---|
| Class A felonies | \$1500 | \$2000 |
| Class B and C | \$400 | \$500 |
| Misdemeanor | \$250 | \$500 |
| Trial | \$1500 | \$2000 |

These recommendations were discussed on March 18 at a meeting of the Criminal Procedures Committee of Superior Court (judges, prosecution, defense attorneys, and others). There was general agreement that the amounts recommended by the Criminal PLUS committee are reasonable.

The recommended amounts will be further discussed in Superior Court and adopted as recommendations to the judges if approved by the court's Executive Committee.

We conferred with the Department of Assigned Counsel and with the Prosecuting Attorney's Office about the new recommended amounts. They agreed that the amounts are reasonable, although probably lower than DAC's actual costs, and that it is unnecessary to conduct a cost analysis.

Since the process is underway to increase the 2003 amounts, it appears that performance audit work on this topic has been completed.

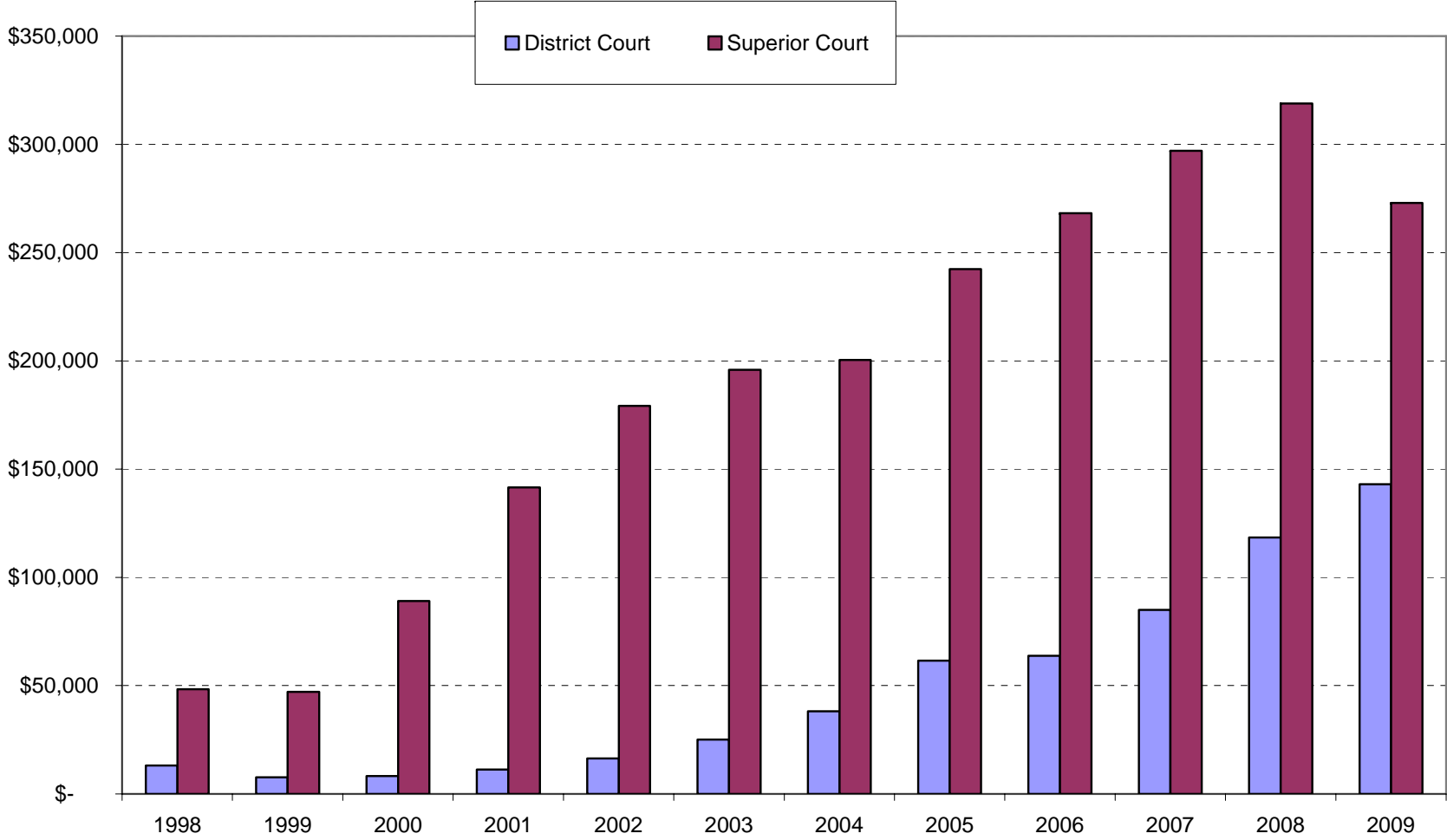
Note on Amounts Actually Collected

It may be asked how much has actually been collected for orders of public defense recoupment. We started tracking the amounts in 1998, when a performance audit of recoupment was conducted, and have followed the issue ever since. The revenue from Superior Court cases increased from \$48,000 in 1998 to \$318,000 in 2008, with a drop in 2009 to \$272,000. The graph on the next page shows the actual amounts collected in both Superior Court and District Court cases.

In District Court, the standard amount ordered for recoupment is \$150, or \$300 for a trial that takes two days or less. If District Court judges wish to raise the standard amount ordered for public defense, they can consider the matter internally and follow the lead of Superior Court.

cc. Judge Bryan Chushcoff, presiding judge, Superior Court
Judge Margaret Ross, presiding judge, District Court

Amounts Collected for Public Defense Recoupment



Source: Budget and Finance cash receipts ledger