

TESTIMONY OF JODY DAVIS
Parole Attorney – J Davis Law LLC
Jody@JodyDavisLaw.com
May 3, 2023

Co-Chairs Steiner and Sanchez and Members of the Joint Committee on Ways and Means:

Thank you for allowing me to provide testimony in strong support of the budget request under SB 5528 for the Board of Parole and Post-Prison Supervision. My name is Jody Davis. I am a public defense attorney in a solo practice. For the past three years I have contracted with the Board of Parole and Post-Prison Supervision (“the Board”) to provide representation for individuals in Board hearings. It is one of the most difficult and meaningful jobs I have ever had.

Board hearings are unique administrative proceedings distinct from other forms of public defense work or trial representation. The nature of this work is incredibly challenging. Most of our clients have committed very serious crimes and have served very lengthy prison terms. The cases I work on can be emotionally exhausting not only due to the details of the crimes committed, but also given the horrific abuse or trauma many of these individuals had to endure growing up, and the failures in our social safety nets. It is a delicate balance to zealously advocate for our clients while recognizing the very real need to consider public safety.

Many attorneys would find our work unappealing as it requires many skills that lawyers are not often called on to utilize. We wear many hats in this work – defacto therapists, case managers, release planners, and attorneys all in one. It takes a diverse skill set to be truly good at this job. Clients have anticipated these hearings often for the entirety of their sentence and the stakes are incredibly high. Building trust with the client is critical to successful representation. This requires empathy, patience, and emotional support. It also requires a significant amount of time and energy.

Under the current budget, attorneys are only paid \$1900 per case. This rate was set many years before I began this work and has not changed since. I generally spend anywhere from 50-70 hours on a given case. I have had countless cases that necessitated easily more than 100 hours of work, particularly when working on complex cases or cases where individuals are impacted by cognitive, developmental, and physical limitations or mental health diagnoses. The hearings themselves can last anywhere from four to seven or more hours. I am responsible for writing what is generally a 20–30-page memorandum and compiling significant amounts of supportive material and other evidence of rehabilitation to present to the Board. I spend hours and hours interviewing clients, preparing and developing our testimony, speaking with witnesses, supporters, and family members, and delving into case records, institutional records, and psychological evaluations.

At \$1900, my base hourly pay is anywhere from minimum wage to \$38 depending on the case. Even at a rate of \$3800, my hourly base pay will still only equate to around \$54. Compare this with Oregon Public Defense Services (OPDS) where contracted attorneys bill hourly rather than receiving a flat rate. Those hourly base rates start at \$105 for the simplest cases. Even that rate is not enough to attract the number of public defenders needed in this state. In addition, OPDS

authorizes attorneys to hire investigators, experts, and administrative assists to help attorneys with aspects of case management, research, and planning. We do not receive any such support.

It is also important to note that the Board, unlike OPDS, does not reimburse attorneys for case related expenses (the one exception for mileage reimbursement for some visits to clients incarcerated locally). This means that all other costs associated with a case such as scanning, printing, supplies, and postage in order to send our clients the materials to which they are entitled also comes out of the \$1900 payment. Despite the low pay, like all sole practitioners I am responsible for paying my own malpractice insurance through the Professional Liability Fund, Bar dues, office and business-related expenses, and health insurance, not to mention law school student loan repayments.

There are a very small number of attorneys who do this work and all of us are experienced and well respected by our clients. When I tell people inquiring about representation that I would put my trust in any one of my colleagues doing this work right now, I genuinely mean it. That said, it is very frustrating to see good clients who have worked extremely diligently to rehabilitate and change their lives that remain in prison and are seeing the board for their third, fourth, or even fifth time largely because they have had extremely poor representation in prior Board hearings. I have seen work from attorneys that the Board used to contract with who have engaged in behavior that borders on malpractice. Many of them have had repeated and lengthy license suspensions by the Oregon State Bar. As a result of terrible experiences working with some of these attorneys, clients started electing to forgo their Board hearings for five or ten years or opted to represent themselves just to avoid those negative experiences.

While it is always difficult to decide how to allot limited funds, the State does not save taxpayer dollars in the long run when people who have worked hard to rehabilitate and are ready to safely rejoin the community remain in prison because of bad representation. The State pays easily over \$100,000 for every two years that individual remains incarcerated, particularly for these older individuals who have spent a significant time in custody. Providing the funding necessary for the Board to retain good attorneys is a valuable cost saving measure.

It is also relevant to note that if there are experienced attorneys willing to continue doing this work, it alleviates significant problems for the Board staff. Without available attorneys, Board staff tasked with assigning counsel are left scrambling to find anyone to represent clients – regardless of qualifications or ability. They recognize that this means that good candidates may end up with delayed hearings or bad attorneys, neither of which is acceptable. In addition, trying to find attorneys to represent these individuals is both disheartening and time consuming.

Representing clients in Board hearings is one of the most meaningful aspects of my work. While it may seem unpalatable to many, particularly given the harm these clients caused prior to their incarceration, I have had the opportunity to work with individuals that are not only rehabilitated, but who folks would be lucky to have as a neighbor.

I hope that myself and my colleagues will be able to continue to provide this important representation in the future. Given the amount of time required to provide good representation, if the rate remains \$1900, it will simply not be feasible to represent clients before the Board will have to step away from representing individuals fear many of us will have to step away from

this work we are deeply committed to. Even at \$3800, we will still remain some of the lowest paid attorneys in this State. I ask that you grant the budget request set forth by the Board and I appreciate your thoughtful consideration of this matter.

Thank you for your time,

Jody Davis
Attorney at Law
jody@jodydavislaw.com
(503) 660-8062