

## CITY OF PUYALLUP

### Office of the City Attorney

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October 26, 2011

Justices of the Supreme Court  
Supreme Court of Washington  
P.O. Box 40929  
Olympia, WA 98504-0929

RE: Suggested Standards for Indigent Defense Services Submitted to Court for Approval  
Pursuant to CrR 3.1, CrRLJ 3.1, and JuCR 9.2

Justices of the Supreme Court:

We understand that the Court adopted amendments to CrR 3.1, CrRLJ 3.1, and JuCR 9.2 that require indigent defense counsel to certify compliance with applicable Standards for Indigent Defense Services. The certification amendments will become effective on January 1, 2012.

The Court has published proposed Standards for Indigent Defense, including caseload limitations, and is currently accepting comments regarding the proposed standards. The Court's proposed Standards for Indigent Defense appear to be derived from the Standards for Indigent Defense Services of the Counsel on Public Defense of the Washington State Bar Association. The Standards for Indigent Defense will become effective on January 1, 2012, while the caseload limitations will become effective on January 1, 2013.

Despite the current absence of hard caseload limits for misdemeanors we are concerned about the possibility of incrementalism or that misdemeanor caseload limitations will be forthcoming in the near future. We observe that the Court proposes to establish an extensive framework of standards for indigent defense services, including caseload limits for felonies, juvenile cases, dependencies, civil commitments, death penalty cases and appeals. We worry that this will lead to adoption of misdemeanor caseload limits while precluding a more thoughtful and comprehensive discussion about the framework of standards that have previously been adopted.

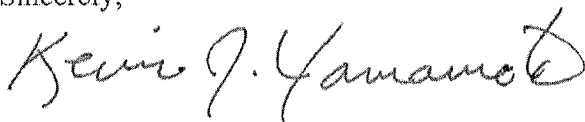
We are also concerned about the problematic impacts of caseload limits on local government

budgets and the resulting impacts to the quality of indigent defense services. In Washington State, the costs of indigent defense, including trial and appellate costs, are borne by cities and counties. If caseload limits are imposed, they may effectively circumvent the local legislative budget processes.

Although the infringement of local government legislative authority may not be of paramount concern, the impacts on quality of service should be. Caseload limits may undermine the economics of defense work so that experienced and more effective defenders can no longer afford to defend. Local jurisdictions may find it necessary to seek cheaper, less experienced defenders in order to achieve caseload quotas. In some situations, local governments may be forced to end localized prosecution and close municipal courts. If this occurs in rural areas, defendants, witnesses, law enforcement officers and others will be forced to travel many miles to district courts in county seats to address, in many cases, minor offenses. And, there will be collateral effects to recipients of traffic infractions who choose to contest their citations.

We join with the Association of Washington Cities (AWC) and the Washington State Association of Municipal Attorneys (WSAMA) and request that the Court refrain from implementing the proposed Standards for Indigent Defense Services, or consider the alternatives that have been offered by AWC and WSAMA. If the Court intends to adopt some form of the Counsel on Public Defense derived standards, we request that the Court refer the standards back to the WSBA Court Rules and Procedures Committee, and consider these comments. We thank you for the opportunity to comment.

Sincerely,

A handwritten signature in cursive script that reads "Kevin J. Yamamoto". The signature is written in dark ink and is positioned above the typed name.

Kevin J. Yamamoto  
Acting City Attorney

c: file

## Faulk, Camilla

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**From:** Kevin Yamamoto [KYamamoto@ci.puyallup.wa.us]  
**Sent:** Wednesday, October 26, 2011 2:27 PM  
**To:** Faulk, Camilla  
**Cc:** Ralph Dannenberg; Doug Levy; Steve Kirkelie  
**Subject:** Comments Regarding Proposed Indigent Defense Standards  
**Attachments:** Letter Supreme Court Indigent Defense Puyallup.pdf

Ms. Faulk:

Our comments concerning the proposed indigent defense standards are set forth herein, and accompany this message as a letter attachment.

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We are also concerned about the problematic impacts of caseload limits on local government budgets and the resulting impacts to the quality of indigent defense services. In Washington State, the costs of indigent defense, including trial and appellate costs, are borne by cities and counties. If caseload limits are imposed, they may effectively circumvent the local legislative budget processes.


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Sincerely,

Kevin J. Yamamoto  
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