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October 29, 2024

Washington State Supreme Court  
Rules Committee  
PO Box 40929  
Olympia, WA 98504-0929

SENT VIA EMAIL:  
supreme@courts.wa.gov

RE: Public Defense Standards Proposed Rule Changes

Dear Honorable Justices of the Washington State Supreme Court,

The City of Issaquah (City) respectfully requests the Washington State Supreme Court maintain the Court's existing Standards for Indigent Defense (Current Standards) and reject the requested amendments to the Standards for Indigent Defense In CrR 3.1, CrRLJ 3.1, and JuCR 9.2 (Proposed Standards).

The City strongly supports a defendant's constitutional right to effective assistance of counsel, and we have worked hard to ensure high-quality representation of defendants in our jurisdiction. As pointed out by the Association of Washington Cities (AWC) and others, the Proposed Standards will not solve current issues, which have not even been identified, and instead will exacerbate current challenges.

**The Proposed Standards Are Not Based on Demonstrated Deficiencies with Washington's Current Standards and Are Premature.**

As pointed out by the City of Kent and other commenters, the Proposed Standards are not based on demonstrated deficiencies with the current standards. They are also based on a national study, completed by the RAND organization (hereinafter referred to as the "RAND report"<sup>1</sup>), that did not include participants from Washington's criminal justice system or attorneys practicing municipal public defense and prosecution. The RAND report was funded by Arnold Ventures, an entity that advocates for specific policy reforms and funds research studies for the purpose of using such studies in their advocacy efforts. They are not a neutral entity and work funded by them should be considered as such.

The RAND report has not been approved by the American Bar Association and explicitly states that the results of the study are "primarily applicable to locations or for purposes where jurisdictionally focused workload standards have not already been produced." Washington state has caseload standards in place, and there is no evidence to suggest these standards are not working.

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<sup>1</sup> RAND report: [https://www.rand.org/pubs/research\\_reports/RRA2559-1.html](https://www.rand.org/pubs/research_reports/RRA2559-1.html)

Other states, including Colorado and Maryland, have responded to the RAND report by calling for their own local, study and analysis. Issaquah agrees with AWC and others that Washington should engage in its own, neutral analysis to see what would work best locally. As discussed herein, the consequences of rushing to adopt standards that have not been meaningfully studied at the local level are too great. Washington cities, and our criminal justice system as a whole, cannot afford to rush to a solution here without conducting additional analysis.

**The Proposed Standards Will Be Harmful to the Criminal Justice System and Exacerbate Current Challenges.**

Implementing the Proposed Standards would require the City of Issaquah to contract for at least three times as many public defenders as we do currently, as well as the support staff they require. We are currently in the process of almost doubling our public defense budget to allow our contract public defenders to increase salaries to attract and maintain skilled attorneys. These additional costs are difficult to absorb, but we understand and appreciate the importance of hiring quality public defenders.

However, the Proposed Standards present a massive unfunded mandate on Washington cities that smaller jurisdictions like Issaquah simply cannot afford. AWC estimates that implementation of the Proposed Standards could cost cities close to \$400 million dollars per year. Our public defense costs are borne by our general fund, for which we have limited funding mechanisms due to statutory and constitutional limitations. While we receive a small amount of grant funding for public defense and prosecution services, it is not nearly enough to cover increases that would result from the Proposed Standards. This means the City would be forced to make substantial budget cuts, including cuts to programs such as our incredibly successful community court program, which is designed to decrease recidivism and keep people out of the criminal justice system. It would also mean cutting programs and services, including parks and recreation programs, which AWC has pointed out have been shown to decrease juvenile crime rates.

Even if the City were able to absorb the increased costs of tripling the number of public defenders it employs, Washington State is facing a public defender shortage and there is simply an inadequate workforce to meet the Proposed Standards, nor will such a workforce be available within the timeframe envisioned by the proposed standards. As pointed out by AWC and others, if the Court adopts the Proposed Standards, local jurisdictions like Issaquah will have approximately 30 months to triple the number of defense attorneys. This would equate to hiring approximately 100 attorneys statewide every month for 30 months, with no retirements or resignations, which is double the current number of graduates from all three Washington state law schools annually. Meeting the Proposed Standards would also likely result in public defense firms and organizations hiring less qualified individuals simply to have the requisite bodies in place, which does nothing to further the interest of our residents in effective assistance of counsel.

Without adequate funding and an available workforce to meet the Proposed Standards, jurisdictions will be limited in their ability to effectively prosecute misdemeanor crimes. More criminal cases will be dismissed due to a lack of defense counsel. This will result in increased criminality and crime victims will be deprived of judicial resolution, and potentially their rights under RCW 7.69.030 as they will not have access to the victims' advocate services that would otherwise be available to them during criminal proceedings. Such outcomes are contrary to the interests of our community and the taxpayers of Washington state.

We urge the Court to put the Proposed Standards on hold so that Washington cities and counties can focus on efforts to increase the public defense workforce, such as student loan forgiveness programs for contract public defenders.

**There Are Alternatives for the Court to Consider.**

The City urges the Court to consider better alternatives to address challenges with public defense in Washington. First and foremost, we ask the Court to hold off on implementation of any of the Proposed Standards until a state-specific study is conducted by a neutral entity to determine appropriate caseload standards for Washington.

Another option for the court to consider would be approving only the portions of the Proposed Standards that are feasible considering current revenue and workforce limits and which cities agree would improve Washington's public defense system. The City of Issaquah is in full support of the training and qualification requirements for misdemeanor public defenders that have been recommended. We are also supportive of increasing social work services within the court system, although we agree with AWC that the staff ratios envisioned in the proposed standards may not be workable everywhere.

Finally, if the Court does decide to adopt the Proposed Standards in their entirety, we ask you to exempt adult misdemeanors until a Washington state-specific study that considers feedback from participants in the State's municipal criminal justice system can be completed. Without such a study, there is simply no evidence that the Proposed Standards are appropriate and warranted for misdemeanor prosecution in Washington.

**Conclusion.**

The City of Issaquah values its public defenders as an integral part of our justice system, and we recognize there is an ongoing issue with resource constraints within the criminal justice system that impacts them. But the Proposed Standards put the cart before the horse. If new standards are to be meaningfully considered, they should be based on the results of a Washington-specific study that includes participants from a comprehensive group of interested parties, including contract public defenders and other members of the misdemeanor and municipal criminal justice system, which differs significantly from the felony system. Accordingly, we ask that you do not adopt the Proposed Standards at this time.

Thank you for the opportunity to comment.

Sincerely yours,

A handwritten signature in blue ink, appearing to read "Mary Lou Pauly", enclosed within a circular blue ink scribble.

Mary Lou Pauly, Mayor

**From:** [OFFICE RECEPTIONIST, CLERK](#)  
**To:** [Martinez, Jacquelynn](#)  
**Subject:** FW: Submittal of Written Comments: Public Defense Standards Proposed Rule Changes  
**Date:** Tuesday, October 29, 2024 4:55:52 PM  
**Attachments:** [10292024 PublicDefenseStandards Issaquah.pdf](#)

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**From:** Mayor <Mayor@issaquahwa.gov>  
**Sent:** Tuesday, October 29, 2024 4:54 PM  
**To:** OFFICE RECEPTIONIST, CLERK <SUPREME@COURTS.WA.GOV>  
**Cc:** Mayor <Mayor@issaquahwa.gov>; Wally Bobkiewicz <wallyb@issaquahwa.gov>; Rachel Turpin <Rachel@madronalaw.com>; Andrea Snyder <andreas@issaquahwa.gov>; Dale Markey-Crimp <dalemc@issaquahwa.gov>; Kristi Schorn <kristis@issaquahwa.gov>; NScott Stewart <NScottS@issaquahwa.gov>; Tisha Gieser <TishaG@issaquahwa.gov>  
**Subject:** Submittal of Written Comments: Public Defense Standards Proposed Rule Changes

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Dear Honorable Justices of the Washington State Supreme Court,

Attached please find my letter respectfully requesting the Washington State Supreme Court to maintain the Court's existing Standards for Indigent Defense (Current Standards) and reject the Proposed Standards. Thank you for your consideration and for including this letter as part of the record.

Sincerely,

*Mary Lou Pauly, Mayor*  
City of Issaquah  
130 E. Sunset Way | P.O. Box 1307  
Issaquah, WA 98027  
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