



October 31, 2024

Washington State Supreme Court
PO Box 40929
Olympia, WA 98504
Via email to: supreme@courts.wa.gov

Re: Comments on the proposed changes to the Washington State Supreme Court's adopted standards for Indigent Defense

Dear Honorable Justices:

We write today on behalf of the City of Kirkland, in response to the Court's request for comments on the suggested amendments to the Standards for Indigent Defense in CrR 3.1, CrRLJ 3.1, and JuCR 9.2. The City of Kirkland respectfully urges the Washington State Supreme Court to maintain the Court's existing Standards for Indigent Defense and to reject the proposed amendments. We share the concerns expressed by the Association of Washington Cities, the Washington Association of Municipal Attorneys, and other cities and counties across the state regarding the basis for the amendments, the ability of local jurisdictions to meet the proposed standards, and the significant consequences these changes will have to the criminal justice system and our communities.

The City of Kirkland recognizes the important role that public defenders play in our criminal justice system, and we believe that all attorneys should have the resources required to provide effective legal representation to their clients. The present caseload limit of 400 cases per attorney per year allows our contracted public defenders to give each of their clients the time and effort necessary to ensure effective representation. We have no reason to believe that the indigent defense services they are currently providing do not already meet or exceed requirements for effective assistance of counsel. Moreover, we are unaware of any findings that Kirkland's contracted public defenders are providing ineffective assistance of counsel. No contracted public defender has communicated to Kirkland their inability to provide effective representation because they are overworked or underfunded. In short, we are aware of no factual support for the suggested change to the caseload standards for misdemeanors.

Many others have provided persuasive comments demonstrating that the proposed standards are based upon an arbitrary and biased national study that did not accurately represent the current state of the criminal justice system in Washington, particularly the work of public defenders on misdemeanor cases in district and municipal courts. If the Court were to nevertheless accept the proposed amendments, Kirkland urges the Court to exempt misdemeanor and gross misdemeanor crimes from such changes.

The City currently contracts with a private law firm, Stein, Lotzkar & Starr (SLS), to provide indigent defense services in Kirkland Municipal Court. Based on the ability to assign 400 cases per attorney, SLS provide two defense attorneys to manage Kirkland's appointed

cases, including courtesy representation at arraignments and jail hearings. In 2023, with a team of two prosecuting attorneys, the City of Kirkland filed approximately 948 criminal cases. We estimate that in approximately 87% of those cases the defendant was found eligible for a public defender. Of those, conflict counsel was appointed in approximately 55 cases, while SLS was assigned in the remaining cases.

The proposed changes, particularly the suggested caseload limits for misdemeanors, will have significant financial impacts to cities across the state, including Kirkland. State funding covers only a small fraction of public defense costs, which means cities are required to use their general fund budgets to fund the majority of the costs. If the proposed caseload limit of 120 misdemeanor case credits per year starting in 2027 is implemented, a rough calculation of the impact on Kirkland's budget shows that our public defense costs would increase from approximately \$400,000/year to almost \$1,400,000/year to prosecute misdemeanor offenses at the existing level. The City of Kirkland has neither the resources nor a potential revenue source to make up the projected shortfall.

We already provide the resources necessary to provide effective legal representation to indigent defendants in Kirkland Municipal Court. Substantially reducing the caseload limits for misdemeanors, as suggested in the proposed amendments, will not improve the provision of indigent defense services. Instead, it would have a devastating impact on our budget, impair the City's ability to provide effective legal representation and supportive services to indigent defendants, and have significant adverse consequences to our community. Therefore, we strongly recommend that you reject the proposed amendments.

Sincerely,



Kurt Triplett
City Manager



Darcey Eilers
City Attorney