



CITY OF PUYALLUP

October 30, 2024

Washington State Supreme Court Temple of Justice
PO Box 40929
Olympia, WA 98504-0929

Re: Proposed Public Defender Standards

Dear Justices of the Washington State Supreme Court,

We are writing to express the City of Puyallup's (Puyallup) opposition to the proposed public defender standards. The new standards, as currently proposed, are untenable given the existing attorney resources within our state. According to the Washington State Bar Association, there are 35,228 individuals licensed and able to practice law in Washington. Of those, only 3,098 attorneys have indicated to the WSBA that they are practicing criminal law.

Considering there are 281 municipalities and 39 counties in Washington, even if every criminal law practitioner served as a public defender, Puyallup would fall short of meeting the proposed requirements. The shortage of attorneys available to comply with these standards raises serious concerns about their practicality and the potential impact on our judicial system.

In Puyallup, there are three prosecutors responsible for approximately 3,000 open cases. The notion that misdemeanor public defenders should only handle up to 120 cases (or 80 gross misdemeanor cases) is impractical. The proposed standards fail to consider the experience level of the public defender. Each primary public defender from the three contracted firms Puyallup works with has over 10 years of experience in criminal law, and one has more than 25 years.

The proposed standards disregard the experience level of public defenders and impose an unfunded mandate on the city. In order to comply with current case standards, Puyallup retained 3 public defender firms. Between them these firms allocate approximately 3 public defenders to the city, to provide representation for indigent criminal defendants. Thus, if the caseloads were reduced by $\frac{3}{4}$ the city would be required to retain a minimum of 12 public defenders to comply with the proposed standards. No city with a population of under 43,000 should be required to employ 12 misdemeanor public defenders. Additionally, the city has seen an increase in case filings in 2024 likely resulting in an increase above the 12 currently calculated.

There is a very likely scenario where public defenders are assigned and resolve 120 cases in well under a year resulting in a long vacation awaiting the new year for new clients to be assigned. In fact, based on anecdotal information, some contract public defenders are seeking to leave the profession not because of heavy workloads, but because of the proposed standards they may not be able practice to any meaningful degree with such low case appointments being permitted. If the proposed standards result in prolonged vacations for public defenders, the proposed case counts are too low.

Furthermore, Puyallup's tax revenue has already seen a 4% decline as of June 2024, making it financially infeasible to meet the proposed requirements. The impact of these standards on Puyallup's fiscal budget is substantial and would force Puyallup to prosecute a limited number of



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cases, as the city cannot afford the proposed number of public defenders. This will likely result in the unintended consequence of decriminalizing a significant number of offenses. The decriminalization experiment following the *Blake* case has already proven to be ineffective, and adopting these standards will likely lead to a surge in crime, resembling the effects seen when restrictions on police pursuits were imposed.

During the September 25, 2024, public comments, it was evident that major stakeholders, including the Association of Washington Cities, the Association of Washington Counties, the Washington Association of Prosecuting Attorneys, and law firms representing indigent defendants, were not initially consulted. Their eventual inclusion revealed strong opposition to the proposed standards. Furthermore, the studies cited in support of these standards did not include data from Washington and only briefly addressed misdemeanor prosecution. The primary support for the reduction in standards appears to come from representatives of King County's Office of Public Defense. It is unreasonable to implement statewide changes based on issues specific to King County, especially when Superior Court Judges in King County have expressed opposition. These judges are uniquely positioned to assess the potential problems and impacts of such standards.

It is also of great concern that the underlying premise of these standards seems to suggest that public defenders, prosecutors, and judges are acting unethically by allowing ineffective assistance of indigent defendants. This implication is deeply troubling, as it undermines the integrity and dedication of public servants.

Ironically, these standards harm the very individuals they aim to protect. Prioritizing quantity over quality is detrimental, not beneficial, to defendants in Washington State. In Puyallup, for instance, no cases have been overturned due to ineffective assistance of counsel, as the city employs competent, experienced attorneys. Limiting attorneys to 120 case credits annually may influence them to change practice areas, further reducing the availability of skilled legal representation.

Puyallup is also concerned of the impact these standards would have on its Community Court program. The proposed public defense standards, if adopted, would likely necessitate the shutdown of Puyallup's Community Court program due to the cost of public defenders. This closure would have a profoundly detrimental impact on Community Court participants, as the program plays a crucial role in helping individuals obtain essential services such as treatment, housing, and other benefits. Without the support of Community Court, many participants would be left without the necessary resources to address underlying issues, potentially leading to higher recidivism rates and further straining the community's social services. The loss of this program would not only undermine the rehabilitative efforts for these individuals but also negatively affect the broader community by removing a vital support system designed to foster long-term stability and reduce criminal behavior.



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Thank you for considering our concerns regarding the proposed public defender standards. We strongly urge a reconsideration of these standards due to the lack of sufficient legal resources, their financial impracticality, and the adverse impact on our community's safety and justice.

Sincerely,

Mayor Jim Kastama

Deputy Mayor Dennis King

Councilmember Julie Door

Councilmember Dean Johnson

Councilmember Ned Witting

Councilmember Lauren Adler

Councilmember Renee Gilliam

City Manager Steve Kirkelie

City Attorney Joe Beck