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October 30, 2024

Washington State Supreme Court  
415 12<sup>th</sup> Avenue SW  
Olympia, WA 98504

**RE: Proposed changes to the Washington State Supreme Court's Adopted Standards for Indigent Defense**

Dear Honorable Members of the Washington State Supreme Court:

Thank you for the opportunity to comment on the proposed revisions to Washington's public defense caseload standards. On behalf of the city, I am writing to express our strong concerns with the proposed revised standards for indigent defense and caseload limits currently under consideration by the Court.

The proposed case reductions from the current 400 to less than 100, would result in our agency needing to quadruple the number of public defenders. The proposed weighting requirements would assign a 1.5 case weight to the majority of the misdemeanor cases the City prosecutes. With approximately 250 court days in a year, an assignment of 100 cases per attorney assumed the attorney would spend, an average of 2.5 court days per assigned case. In addition, the proposed standards would impose a requirement for municipalities to employ prescriptive numbers of investigators and paralegals, even if the appointed defense attorneys do not deem such levels of staffing necessary or helpful to support their defense of misdemeanor cases.

We express strong concern over the adoption of such prescriptive requirements for many reasons, including those set forth below.

### **Overreach of Judicial Authority**

The proposed standards appear to exceed the Washington Supreme Court's constitutional authority and encroach upon the realm of legislative policymaking. While the Court unquestionably has the power to regulate the ethical and competent practice of law, these proposed standards go far beyond that scope by regulating contractual relationships with municipalities. Dictating staffing decisions that should be made by those with the most knowledge and expertise of what level of effort is required to represent effectively and competently those charged with misdemeanor crimes should be left up to the municipal agencies.

The level of effort required to legally defend one accused of a crime can vary greatly based upon individual client objectives, the issues and evidence in a particular case, and the practices of the prosecutors and courts involved in the case. For example, if a defendant does not contest guilt to a charge for which there is no identified defense and he or she is offered an agreement by which the case will be dismissed if the

defendant commits no further violations of the law, it would be unnecessary for an attorney to devote 2.5 court days on that client's case, nor would it require any investigative or other support services.

### **Lack of Empirical Basis**

In addition, the City of Renton is concerned that these proposed standards are not properly grounded in the current status of indigent defense in Washington municipal courts. The proposed standards apply a one-size-fits-all approach without consideration of the varying needs and resources of different municipalities across the state. There has been no investigation or judicial finding that the current levels of public defense in Washington municipal courts are constitutionally inadequate. There is no evidence that private attorneys are dedicating an average of 2.5 court days to each misdemeanor case, and there is no associated requirement that private attorneys, who are less efficient due to not concentrating their practice in a single court, impose such limits to their own caseloads. Without comprehensive study of the existing conditions and outcomes in municipal courts, it is premature and inappropriate to impose such sweeping changes on municipalities as a matter of judicially imposed rulemaking.

### **Financial Burden**

The proposed standards, if adopted, would impose an unsustainable financial burden on municipalities. As a local government, we are already operating under tight budget constraints, and the drastic increase in public defense costs, without empirical basis for the requirement, would impose unnecessary shifts in public services to adapt to the judicially imposed mandates, including potential cuts to programs such as community and therapy courts whose purpose is to reduce recidivism and build stronger and safer neighborhoods.

### **Workforce Shortages**

We are deeply concerned about there not being enough qualified public defenders, investigators, paralegals, prosecutors, and court staff to implement the unnecessary four times increase in staffing in public defense, and associated court and prosecution staffing that would be necessary to dedicate resources towards the projected 2.5 court days per case assigned. This shortage could lead to unnecessary dismissals or inability to file important cases, including domestic violence and DUI offenses, which are crucial for maintaining public safety in our community.

### **Unnecessary Micromanagement**

The level of detail and specificity in the proposed standards amounts to unnecessary micromanagement of local public defense systems. Many municipalities, including Renton, already have effective standards in place to ensure quality representation for indigent defendants. The proposed standards fail to recognize the diversity of approaches that can achieve this goal and instead impose a rigid framework that may not be suitable for all jurisdictions.

### **Potential for Unintended Consequences**

Renton is also deeply concerned about the potential unintended consequences of these standards. The implementation of these standards could severely impact the administration of justice at the local level. By setting unrealistic caseload limits and imposing stringent staffing requirements, the standards may



reduce access to justice for indigent defendants. Municipalities may be forced to limit the number of cases they can handle, potentially leading to delays in proceedings or even the inability to prosecute a large number of offenses. Inability to prosecute offenses could lead to an increase in crime and further burden on the system.

### **Recommendations and Conclusion**

While we support the goal of ensuring quality representation for indigent defendants, we are strongly concerned that the proposed standards are unachievable and would have severe unintended consequences for our city and others across the state. These standards represent an overreach of judicial authority, lack proper empirical grounding, and unnecessarily interfere with local government operations. We urge the Court to reject this approach and instead, would respectfully urge consideration of the following alternatives:

- Before adopting any prescriptive staffing or contractual requirements, conduct a comprehensive study on the actual impact of these standards and only apply prescriptive standards on providers of indigent defendants if the same prescriptive standards would be applied to attorneys representing defendants who are not indigent.
- If the Court remains determined to impose prescriptive standards that will mandate substantial increases in the number of attorneys and staff in the municipal judicial system, consider a phased approach that will allow the several years necessary to recruit new professionals into the practice of law and training to become competent in municipal prosecution and defense, allow time to implement the changes in a way that would allow cities to seek additional funding sources and to adjust their agencies' budgets and workforce gradually without unnecessary adverse impacts on public services.
- Defer to the state legislature in its policy making role to explore alternative methods to improve indigent defense without judicially imposing stringent caseload limits or other requirements that may be unnecessary and counterproductive.

Thank you again for your consideration of our concerns.

Sincerely,



Armondo Pavone  
Mayor

cc: Shane Maloney, City Attorney for the City of Renton

