



October 29, 2024

Washington Supreme Court
PO Box 40929
Olympia WA 98504

Re: Proposed changes to the Washington Supreme Court Standards for Indigent Defense

Dear Honorable Justices:

The City of Tukwila respectfully implores the Washington Supreme Court to reject the requested amendments to the Standards for Indigent Defense in CrRLJ 3.1. The City of Tukwila supports a defendant's constitutional right to effective assistance of counsel. The criminal justice system is facing significant workforce challenges, and the City of Tukwila is working to provide resources that ensure every adult misdemeanor defendant has effective assistance of counsel where the attorney meets an "objective standard of reasonableness" under "prevailing professional norms."¹

The proposed revisions to the state's Standards for Indigent Defense will not solve current issues and will result in new and weightier challenges than before, and the potential for felony cases to be charged as misdemeanors would have a significant impact on the Municipal Court caseload.

The proposed changes are based on a national study.

The proposed changes to the state's Standards for Indigent Defense are predicated on a 2023 national study² completed by the RAND organization. The report notes that the views expressed in the report are solely the opinions of the authors and have not been approved by the American Bar Association³. Furthermore, the RAND report says 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 currently has caseload standards in place. The report continues to state that, "the most accurate weighted caseload model is developed specifically for an individual state or jurisdiction." Therefore, the appropriate response would be for Washington to conduct the necessary research and base recommendations on that research. These issues are too important to rush in haste to a solution.

¹ *Strickland v Washington*, 466 US 668 (1984)

² http://www.rand.org/pubs/research_reports/RRA2559-1.html

³ RAND Report Page ii

The criminal justice system requires effective coordination of all moving and interdependent parts, including prosecutors, defense attorneys, judges, court staff, victims' advocates, investigators, social workers and external resources like substance use and behavioral health treatment providers. Without adequate funding and workforce available to meet the proposed standards, it is inevitable that more criminal cases will be dismissed due to a lack of defense counsel, including misdemeanor DUI and domestic violence cases. The proposed recommendations will exacerbate current challenges with harmful consequences.

Smaller jurisdictions struggle the most to recruit and retain public defense attorneys. Modifying the caseload standards will not provide equal access to justice but will increase the challenges that smaller jurisdictions will have in providing public defense services. Instead, the solution lies in concerted workforce efforts to increase access to internships, student loan forgiveness programs for contract attorneys, and other programs designed specifically to increase the workforce in smaller, underserved areas.

There is an inadequate workforce to meet the proposed standards

To implement the proposed caseload standards, the City of Tukwila will require at least three times the number of public defense attorneys, as well as social workers and investigators. There is a very real concern that the workforce required will not be available within the timeframe envisioned by the proposed standards. With the inability to expand the workforce to meet the standards, the City of Tukwila would be hindered in the ability to address misdemeanor crimes consistently and effectively, including crimes like domestic violence, drug possession, and DUI. Additionally, misdemeanor caseloads may be incrementally increased when felony charges are reduced down to a misdemeanor.

The City of Tukwila supports a concerted legislative effort to increase the workforce pipeline for public defenders, prosecutors, court staff, social workers, investigators, and other key personnel. However, even if the legislature takes significant steps in the 2025 legislative session towards these goals, the recommended caseload standards as proposed are not feasible.

The proposed standards are financially infeasible for cities

The City of Tukwila pays public defense costs out of the general fund budget. Funding sources for a city's general fund are statutorily and constitutionally limited, in addition to being constrained by residents' ability and willingness to pay. The State currently funds only a small fraction of public defense costs. Given the current state budgetary forecasts, this is unlikely to change in the near future.

Faced with these cost increases, the City of Tukwila may be forced to make budget cuts to other services, including those designed to address the root causes of criminal behavior keeping people out of the criminal justice system.

Better alternatives exist to address the challenges

A Washington-state specific study:

The RAND report highlighted national issues and has prompted other states and local governments to call for a location-specific study to determine the appropriate weighted caseload standard for their jurisdiction. Rather than making a decision on the WSBA recommendations in haste, the City of Tukwila supports careful consideration of a state-specific standard developed by a neutral researcher.

We urge approval of only portions of the proposed recommendations that are feasible and achievable within current revenue and workforce limits, and which will improve public defense. The proposed caseload limits have been the focus of much of the attention related to the WSBA's recommendations, however, some components of the proposed revisions are feasible and would strengthen Washington's public defense services. For example, the City of Tukwila supports the training and qualification requirements for misdemeanor public defenders. While the staff ratios envisioned in the proposed standards may not be workable everywhere, we support the idea of providing access to investigators, social workers, and interpreters. These types of reforms are positive steps forward but if the rigid requirements of the proposed revisions are adopted the City of Tukwila will be limited in the provision of these resources.

If the Court is inclined to adopt the proposed revisions to the Standards for Indigent Defense in their entirety, we ask the Court to exempt adult misdemeanors from the revisions, or at a minimum, delay implementation as to misdemeanors for several years to allow time to build the necessary workforce and time for the legislature to appropriate the needed funding increases.

The City of Tukwila appreciates the work done by our public defenders. We know that the current recommendations will not solve the issues. At best, the recommendations are financially and logistically infeasible, and at worst, they will create harmful consequences. We ask that you do not adopt the proposed changes.

We appreciate the opportunity to comment on the proposed revisions to the Standards for Indigent Defense, and we welcome any questions you may have.



Thomas McLeod
Mayor



Mohamed Abdi
Council President

From: [OFFICE RECEPTIONIST, CLERK](#)
To: [Martinez, Jacquelynn](#)
Subject: FW: Written Comment re CrRLJ 3.1 Standards for Indigent Defense
Date: Tuesday, October 29, 2024 1:30:31 PM
Attachments: [WA Supreme Court Comments on Standards for Indigent Defense 10-29-2024.pdf](#)

From: Cheryl Thompson <Cheryl.Thompson@TukwilaWA.gov>
Sent: Tuesday, October 29, 2024 1:02 PM
To: OFFICE RECEPTIONIST, CLERK <SUPREME@COURTS.WA.GOV>
Subject: Written Comment re CrRLJ 3.1 Standards for Indigent Defense

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I have attached a letter from the City of Tukwila providing written comment regarding CrRLJ 3.1 Standards for Indigent Defense.

Thank you.

Cheryl Thompson

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