Honorable Justices of the Washington State Supreme Court
Temple of Justice
Email: supreme@courts.wa.gov.

Dear Honorable Justices,

Subject: CrR 3.1, CrRLJ 3.1, JuCR 9.2 STDS

I am writing to express my strong support for the adoption of the 2023 National Public Defender Workload Standards. I have been licensed to practice law in Washington since 2013. I am proud to have worked at the Snohomish County Public Defender Association since February 2024. Prior to that I worked as an immigration removal defense attorney with the New York Family Unity Defense program representing detained non-citizens under a public defense model and in the e-discovery practice at Perkins Coie in Seattle.

I appreciate that many of my colleagues have chosen to write in detail – far more eloquently than I could – making the positive case for revised caseload standards: providing timely, effective legal representation to some of the most vulnerable members of our community, who are facing life-changing circumstances. So, I will instead focus on some of the concerns raised by WAPA, specifically the concern that the new caseload standards would lead to "de-facto decriminalization" tantamount to abolition as prosecutors would be forced to dismiss "serious" cases. WAPA's position lacks nuance and shows a misunderstanding of prosecutorial charging decisions in practice. While I can only speak to the circumstances I've observed in Snohomish County, the Snohomish County prosecutor is a member of WAPA and as of the drafting of this letter has not submitted a separate letter.

WAPA states that due to a public defender shortage, Courts will be forced to dismiss serious cases where defendants lack counsel. WAPA contends that not only will this subvert the will of the "people" and their representatives, but will also be harmful to crime victims, who will not get their day in court. WAPA reports that victims of violent crime are already hesitant to report crime, and the implication is that if more cases are dismissed or fewer cases are filed, reporting will shrink further. According to WAPA, "failing victims" will "push our society closer to a land of vigilantism."

First, WAPA's reasoning relies heavily on the assumption that if crime victims could be assured of their "day in court," justice would be served, and victims would presumably be made whole. But instead of providing statistics or surveys of crime victims' satisfaction with the legal process, they provided statistics showing that even the victims of the most serious crimes – sexual assaults, robberies and assault and battery – do not even bother reporting to

the police as it is. It would likely behoove WAPA and its member prosecutors to examine why this number is currently so low, and whether a law enforcement and court process focused on criminal convictions rather than healing and making victims whole might be the cause. Further – if so few serious crimes are even reported *now* due to a lack of trust in the justice system, wouldn't we currently be seeing rampant vigilantism?

In fact, it's likely that the current delays in resolving cases as overburdened defense attorneys seek continuances are harmful to victims *right now*. If WAPA members are genuinely concerned about victims of serious crime, when the revised caseload standards are adopted they can exercise their discretion in a way that prioritizes prosecuting those crimes. Defense attorneys with lighter caseloads will be able to resolve cases more efficiently, which will benefit crime victims as well as defendants by minimizing prolonged legal proceedings. Even now, WAPA prosecutor members could decline to prosecute victimless crimes, or crimes where the cost to the victim is a tiny fraction of the cost of policing, jailing, prosecution and defense.

In Snohomish County alone, thanks to the prosecutor's charging decisions, taxpayers are on the hook for thousands of dollars each time a charge is filed against an unhoused person for taking a $7 sandwich from Safeway. Not only are these cases a significant portion of a misdemeanor defense attorney's caseload, the prosecutors for Snohomish County will rarely negotiate a fair outcome that doesn't include lengthy probation that is impossible for an unhoused person to comply with. Simply minimizing their requests for probation for misdemeanors would result in a *tremendous* cost savings to the County and would take a significant amount of work off public defenders' plates.

Furthermore, in Snohomish County, a misdemeanor supervisor was recently heard telling a deputy prosecutor that they take cases they know are "losers" to trial for the practice. Not only is this ethically dubious for prosecutors to take cases unsupported by any evidence to trial for practice, even dismissing weak, victimless misdemeanor cases would free up tremendous resources in their office to prosecute what WAPA considers serious, violent crime.

WAPA's letter ignores the fact that *even if* public defender offices could not staff up to represent every criminal defendant under current charging standards, ultimately, they do have discretion on what to prosecute. And it is patently disingenuous to represent that violent, serious charges would be on the chopping block when – at least in my county – the prosecutor has decided to pursue every filed charge to its fullest, regardless of the strength of the case or utility of overly-aggressive prosecution for victimless crimes.

However, I would like to challenge the assumption that public defender offices would even face catastrophic staffing shortages. As I mentioned above, public defense is my third legal career. Even in the short time I've been a public defender, it is my favorite legal job so far, and I hope to spend the rest of my career doing this work. However, I have a wonderful family including children and pets to balance with this work -- not to mention taking care of my health by finding time to exercise, socialize, and rest. Candidly, it is hard to see how I can find that balance absent reasonable caseload standards. Attorneys are drawn to public defense for a variety of reasons – a commitment to social justice, a love of trials, or a desire to protect constitutional rights. Regardless of the motivation, we're typically passionate about this work, and if not for burnout, more attorneys would be able to stick to this work, not to mention be attracted to it.

Finally: criminal defendants have a constitutional right to effective assistance of counsel and the revised caseload standards are necessary to achieve that. I urge this Court to adopt the proposed standards.

Regards,

Maggie Lindstrom