



Satpal Singh Sidhu
Whatcom County Executive



October 31, 2024

The Honorable Chief Justice Steven González
Washington State Supreme Court
P.O. Box 40929
Olympia, WA 98504-0929

RE: Comment on Proposed Caseload Standards for Indigent Defense

Dear Chief Justice Gonzalez and Members of the Court:

I appreciate the opportunity to comment on the Indigent Defense Standards proposed by the Washington State Bar Association.

Through this comment process, you are hearing about the critical need to provide relief to our struggling public defenders as well about the inability of resource-constrained cities and counties to implement the standards. I acknowledge all these concerns as valid and understand that this impasse must be resolved.

I also appreciate that the tools available to you for enacting change are limited. Most importantly, the funding decisions required to support lower caseloads are the purview of the State Legislature. It is the Legislature's responsibility to fund indigent defense, an obligation it has not met to date. However, I believe that you could shape your decision in a manner that recognizes other organizational and systemic challenges, outside the immediate funding question, in order to facilitate successful implementation and achieve our shared objectives. To this end, I have two suggestions:

1. Postpone the start of implementation until 2026

Our county, like many others, does not have funds allocated for implementing lower caseloads in 2025. Inflation and stagnant local revenues have required Whatcom County to institute austerity measures, including a hiring freeze in June 2024, to slow deficit spending. Our current fiscal situation does not allow us to hire additional staff without making cuts.

Whatcom County's ability to hire additional defense attorneys and support staff to accomplish lower caseloads is fully dependent on a state-driven revenue solution, which we intend to advocate for in the upcoming session in partnership with the Washington State Office of Public Defense, other counties and cities. Delaying implementation until 2026 provides additional time to plan and budget for such changes.

2. Adopt a more graduated transition to lower caseloads

In recent years, our Public Defender's Office has struggled to find qualified candidates to fill vacant positions. Not infrequently successful candidates have been recruited from neighboring jurisdiction. My administration is concerned that the proposed ambitious timeline for lowering caseload standards is too rapid and will lead to counties and cities fighting over a limited pool of qualified attorneys. While lower caseloads will eventually serve to stimulate workforce growth, it would be naïve to think that the workforce

will grow threefold in less than three years, which is what would be required to be compliant with the proposed timeline.

If workforce growth does not keep pace with the steep decrease in caseload standard, defendants will go without representation, cases will be dropped prior to appropriate resolution, and the courts will be unable to fulfill their constitutional mandate of serving justice.

I would request that the Court consider phasing in the proposed Year 1 and Year 2 caseload levels over three years (2026-2028), and then pause further changes until a review has been conducted about the impact of adopted changes and future needs. A graduated transition would not only address some of our concerns about recruitment but also our administrative and facility needs. The proposed Year 3 caseload levels represent a significant shift, and it would be wise to pause, evaluate the readiness of local jurisdictions to take that next step, and, if necessary, revisit the pace of adoption of additional caseload reductions.

Our calculations indicate that the new standards would require us to expand our office of 43 lawyers and support staff to 125, which presents many more challenges than just a funding problem. Attempting to accomplish that in less than three years would put extraordinary stress on our facilities, HR, and IT teams. I know that many of you served in municipal and superior courts, and you have observed how our judicial system is reliant on resource-constrained local administrations. Please keep these challenges in mind when evaluating the proposed timeline of implementation.


I want to be clear that my recommendation to move forward more gradually and deliberately is not meant to downplay the urgency of the need to improve caseloads for our public defenders. My concern as a public administrator is that too rapid a transition will undermine the effectiveness of the effort more broadly. Even if the state delivers the prerequisite funding quickly, the workforce will not expand fast enough to meet the demand and jurisdictions will compete for a limited workforce, resulting in more public harm than benefit.

Speaking from my experience as an executive in both the private and public sectors, I know that rushed reforms are rarely successful reforms, and that a good solution that's well implemented is always better than a great solution that's poorly implemented.

The vision presented by the Washington State Bar Association is a great one, but it's a vision without a plan. I urge you to provide your partners in local government with the time necessary to plan for these organizational changes, provide the state with time to appropriately budget for the costs, and also provide sufficient time for the workforce to grow in response to increased demand for public defenders.

Thank you for considering my suggestions.

Sincerely,



Satpal Sidhu
County Executive