

April 30, 2025

Washington Supreme Court  
P.O. Box 40929  
Olympia, WA 98504

Re: Proposed Standards for Indigent Defense CrR 3.1, CrRLJ 3.1, and JuCR 9.2  
(Appellate).

Dear Justices of the Washington Supreme Court:

I am writing in support of the critical course-correction in appellate caseload standards.

I am a Washington attorney who has recently transitioned from trial to appellate public defense work. I made this transition despite warnings from multiple quarters about life as an appellate defender under the Washington's current caseload standards. While I remain committed to continuing in this work, the warnings have been borne out.

We will eventually fix our caseload problem – either now, while it is only a caseload problem, or later, at far greater cost, once it has been allowed to grow into an attrition problem.

I do not believe the threat of attrition posed by unmanageable caseloads comes primarily from the effect on an appellate public defender's work/life balance or "quality of life." An attorney comes to indigent defense work *for the work*, knowing that better work/life balance could probably be had elsewhere. An attorney chooses this work, despite its downsides, out of a commitment to asserting the rights of the most vulnerable, and out of a determination to "make a difference" in our legal system.

But the uphill struggle the attorney faces, under the current caseload standards, in trying to provide thorough, zealous, and effective advocacy for their clients – to make a difference – undermines the very reason for choosing this work to begin with. The primary and unsurprising effect of an unmanageable caseload is the adverse effect that this has on the quality of representation for individual clients. This makes justice feel more like a thing "churned out." But it is the secondary effect of attorney demoralization that also implicates this Court's administrative, and not only its judicial, function. If attorneys cannot spend enough time on a case to at least feel certain, whatever the outcome, that they have given their client the

advocacy that our legal system guarantees, then the attorney's sustaining sense of purpose and reason for continuing in this work becomes obscure.

The present standards also foster needlessly tense relations between stakeholders in our appellate criminal legal system. Much of this results from the imperative the standards impose on appellate defenders to request extensions in order to produce constitutionally adequate work. Courts grow weary of the extension requests; prosecutors' management of their own caseloads is made more difficult by the lack of predictability in a case's timeline; and to the defender's burden of an unmanageable caseload is added the personal strain of facing court resentment merely for counsel striving to carry out their constitutional duties to their clients.

Because of the seeming futility of pointing the finger where it substantially belongs – at the untenable caseloads – these various stakeholders tend to point the finger at one another. It remains jarring to me that, specifically in our appellate courts, the threat of attorney sanctions is a routine feature in the life of a case, rather than a rare and exceptional occurrence. An agitated atmosphere of zero-sum relations between the actors in a case does not lend itself to clear and balanced legal analysis, and the time that has to be spent on logistical skirmishes over case management is time wasted. Such tensions can also quickly lead to burnout even in a committed attorney who would be willing to endure, if necessary, the heavy weight of the caseload itself.

The proposed WSBA standards lay out a balanced and sustainable caseload structure that would protect the rights of those who need representation while also respecting the practical needs of the legal system. Thank you for your consideration.

Respectfully,

A handwritten signature in black ink, appearing to read "Matt Folensbee". The signature is fluid and cursive, with the first name "Matt" being more prominent than the last name "Folensbee".

Matt Folensbee  
Attorney  
Washington Appellate Project  
WSBA 59864

**From:** [OFFICE RECEPTIONIST, CLERK](#)  
**To:** [Farino, Amber](#)  
**Cc:** [Ward, David](#)  
**Subject:** FW: Comment to proposed amendments to appellate standards, CrR 3.1, CrRLJ 3.1, JuCR 9.2  
**Date:** Wednesday, April 30, 2025 3:46:20 PM  
**Attachments:** [Folensbee Appellate Standards comment.pdf](#)

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**From:** Matthew Folensbee <mattfolensbee@washapp.org>  
**Sent:** Wednesday, April 30, 2025 3:41 PM  
**To:** OFFICE RECEPTIONIST, CLERK <SUPREME@COURTS.WA.GOV>  
**Subject:** Comment to proposed amendments to appellate standards, CrR 3.1, CrRLJ 3.1, JuCR 9.2

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Good afternoon,

The attached letter contains a comment in support of the proposed amendments to the appellate caseload standards.

Thank you,

Matt Folensbee  
Attorney  
Washington Appellate Project  
WSBA 59864