



**WASHINGTON STATE
OFFICE OF PUBLIC DEFENSE**
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April 29, 2025

The Honorable Chief Justice Debra L. Stephens
Washington State Supreme Court
PO Box 40929
Olympia, WA 98504-0929

Dear Chief Stephens and Members of the Court:

Public defense for parents facing dependency and termination proceedings and appellate representation is state-funded and managed by the Washington State Office of Public Defense (OPD). We strongly support adopting the Washington State Bar Association (WSBA) proposed family defense and appellate standards. These standards are essential to provide competent representation for Washington residents and to ensure that OPD can attract and retain qualified professionals to protect constitutional rights. OPD's capacity to enact the proposed amended standards is contingent on legislative funding and a sufficient workforce, which will be harder to achieve if these proposed standards are not adopted.

The Court's current caseload limits do not reflect modern-day public defense.

The current caseload limits, 80 open case credits in family defense and 36 case credits per year in appellate, do not originate from workload studies or data analysis. These numbers were adopted in previous decades based on industry assumptions and may have been more appropriate under practices then. However, times have changed.

In family defense, changes have increased the overall number of hearings per case, increased the frequency of contested hearings, and made representation more technical. Attorneys report that dependency petitions include more challenging allegations. They also experience a growing number of medically complex cases, represent many families impacted by fentanyl and other substances, and litigate systemic and institutional racism for Black, Indigenous, and other Parents of Color who are disproportionately represented in the child welfare system.

Appellate defense has also become more complex. New technology like body cameras and recorded jail calls have increased the amount of evidence to review. Litigation has become more

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complex, as this Court has demanded that appellate attorneys address issues of racial injustice and unfair sentencing. Indeed, the ballooning transcript length that appellate attorneys review reflects the increasing workload of appellate litigation. Appellate attorneys also better communicate with their clients, which ethical rules demand. Incarcerated individuals have increased access to telephones and consult more often with their attorneys. Additionally, the remote locations of Washington's prisons make in-person visits time-intensive.

OPD's Parents Representation and Appellate Programs have drastically increased the average hours attorneys spend per case. Contractors are working harder and longer hours, sacrificing evenings and weekends. Increased communication must be factored into why the current standards must be revised. Caseloads must be reduced proportionately to account for the greater demand of today's cases.

Changes to the standards are grounded in professional evaluations.

The proposed changes for family defense caseloads originate from a committee of family defense experts who, accompanied by a caseload standards expert from the American Bar Association, reviewed similar studies in family defense from other states and right-sized numbers to reflect practices unique to Washington. In addition to the lower caseloads, the proposed amendments acknowledge the pivotal role played by social workers in ensuring that parents fully participate in their child's dependency case.

The proposed change for appellate caseloads reduces annual assignments from 36 to 25 case credits per year for a full-time attorney, to be adopted on an interim basis until a study can be completed to assess appellate defense workloads formally. This study is underway as a collaboration between WSBA and OPD, which OPD funds. We anticipate that results will be available by Fall 2025.

Revised caseload standards are a fundamental part of the solution.

The Court's decision to revise caseload limits will not remedy the current situation alone. Undeniable realities include financial constraints and limited availability of attorneys. Nonetheless, these limitations should not dictate professional standards or expectations of constitutionally sufficient representation by court-appointed counsel. Newly adopted standards will be a critical step towards reform because they provide the framework for budgetary planning and measuring the success of OPD's programs. The revised standards will communicate to OPD

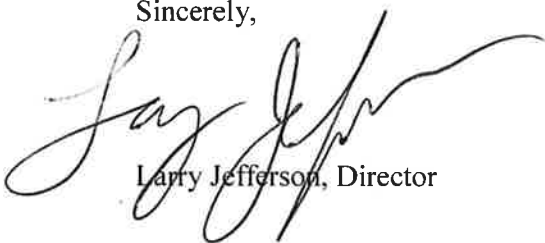
contractors that their realities are recognized and a pathway to change has begun. The failure to act could perpetuate the status quo of overworked attorneys, burnout, and high turnover.

Meanwhile, OPD is committed to working within available resources to find creative approaches to remedy the current crisis. We are expanding our use of social service providers including lived experts to support parent clients and help them to be successful in their case. We have begun to increase access to and availability of paralegals to relieve some appellate attorneys of time-consuming paperwork. We support various pre-file programs to help reduce the number of filings in family and criminal courts. We promote collaboration between trial and appellate counsel to achieve greater success at the trial level, reducing the need for appeals, family separation, and/or incarceration. We provide no-cost training, case consultation, and other resources to support our contractors, and stand with them through the challenges of public defense.

OPD is also working to increase the number of attorneys who become public defenders and want to stay in the field. We partner with law schools to forge internship pipelines into public defense. Finally, we are working to achieve parity in compensation and staff support with the attorneys representing the State in Appellate and Dependency or Termination cases.

Public defense has reached a crisis point, and the solution isn't single-faceted. However, reform will not occur absent caseload reductions. Washington is overdue for revising caseloads to match the reality public defenders face. We ask for this Court's help to make this happen. Revising the caseload standard will be a significant step leading to other necessary reforms, including increased state funding to implement new caseload standards and attracting more legal professionals into our field. We appreciate this Court's commitment to public defense in establishing the 2012 Standards and its willingness to consider new standards reflecting current realities. We urge you to adopt the WSBA's proposed appellate and family defense standards.

Sincerely,

A handwritten signature in black ink, appearing to read "Larry Jefferson", with a stylized, flowing script.

Larry Jefferson, Director

From: [OFFICE RECEPTIONIST, CLERK](#)
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Subject: FW: Comments to Proposed Standards for Indigent Defense CrR 3.1/CrRLJ 3.1/JuCR 9.2
Date: Tuesday, April 29, 2025 2:40:38 PM
Attachments: [LTR OPD Family Appellate Defense Standards April2025.pdf](#)

From: Larry Jefferson <Larry.Jefferson@opd.wa.gov>
Sent: Tuesday, April 29, 2025 2:20 PM
To: OFFICE RECEPTIONIST, CLERK <SUPREME@COURTS.WA.GOV>
Subject: Comments to Proposed Standards for Indigent Defense CrR 3.1/CrRLJ 3.1/JuCR 9.2

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Dear Chief Stephens and Members of the Court:

Thank you for considering the critical need to update these standards so that all Washingtonians receive the competent level of representation the Constitution requires.

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