

# THE SUPREME COURT OF WASHINGTON

IN THE MATTER OF THE ADOPTION OF )  
AMENDMENTS TO THE STANDARDS FOR )  
INDIGENT DEFENSE UNDER CrR 3.1, CrRLJ 3.1, )  
AND JuCR 9.2 )  
\_\_\_\_\_ )

## ORDER

NO. 25700-A-1681

The Washington State Bar Association (WSBA) and the Council on Public Defense (CPD) have recommended amendments to the Standards for Indigent Defense under CrR 3.1, CrRLJ 3.1, and JuCR 9.2. The proposed amendments were submitted to the Court in two phases. In March 2024, WSBA and the CPD submitted comprehensive proposed amendments to the Standards, which the Court published for comment in June 2024. The Court also held two public hearings on those proposed amendments on September 25, 2024, and November 13, 2024. In September 2024, WSBA and the CPD submitted additional proposed amendments to the Standards related to appellate cases and family defense cases, which the Court published for comment in January 2025.

The Court has held multiple internal work sessions regarding the proposed amendments. The Court has also issued several orders related to the proposed amendments, including:

- On June 5, 2025, the Court issued [Order No. 25700-A-1642](#), which suspended Standard 14 of CrR 3.1, CrRLJ 3.1, and JuCR 9.2—Qualifications of Attorneys for one year, or until otherwise ordered by the Court. This order also modified the

ORDER

IN THE MATTER OF THE ADOPTION OF AMENDMENTS TO THE STANDARDS FOR INDIGENT DEFENSE UNDER CrR 3.1, CrRLJ 3.1, AND JuCR 9.2

Certification of Appointed Counsel of Compliance With Standards Required by CrR 3.1/CrRLJ 3.1/JuCR 9.2 (“Certification of Compliance Form”) during the suspension of Standard 14.

- On June 9, 2025, the Court issued [Order No. 25700-A-1644](#), which addressed caseload standards for felony, misdemeanor, and civil commitment cases and provided that there shall be an evaluation of the progress and impact of these caseload standards three years after the effective date of these standards. This order was clarified in November 2025 by [Order No. 25700-A-1671](#).
- On September 5, 2025, the Court issued [Order No. 25700-A-1656](#), which addressed caseload standards for family defense cases, as well as [Order No. 25700-A-1657](#), which addressed interim caseload standards for appellate cases<sup>1</sup> pending further order of the Court.

The Court, having completed its review of the proposed amendments and the comments and testimony submitted thereto, and having determined that the proposed amendments as revised by the Court will aid in the prompt and orderly administration of justice;

Now therefore, it is hereby ORDERED:

- (a) That the amendments as attached hereto are adopted.
- (b) That the attached amendments will be expeditiously published in the Washington

Reports and will become effective January 1, 2026.

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<sup>1</sup> The attached amendments retain that order’s reduction of appellate caseloads to 30 appeals per attorney per year, with a further reduction of appellate caseloads on January 1, 2027.

IN THE MATTER OF THE ADOPTION OF AMENDMENTS TO THE STANDARDS FOR  
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(c) Effective January 1, 2026, this order supersedes [Order No. 25700-A-1642](#) (June 5, 2025), which temporarily suspended Standard 14 and modified the Certification of Compliance Form during the suspension of Standard 14.

(d) Per [Order No. 25700-A-1656](#) (Sept. 5, 2025), the Court provided that “[b]eginning July 1, 2026, family defense attorneys shall not represent more than 45 family defense clients or carry more than 60 open and active cases at any given time” under the Standards, with further caseload reductions beginning July 1, 2028. Those provisions are included in the attached amendments. Until caseloads are reduced on July 1, 2026, family defense attorneys should not exceed the previously applicable caseload standard of “80 open juvenile dependency cases per attorney.”

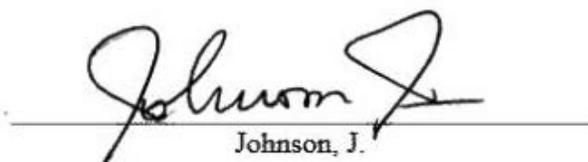
The Court reiterates that there shall be an evaluation of the progress and the impact of the caseload standards three years after the effective date of these standards. See [Order No. 25700-A-1644](#) (June 9, 2025). The Court directs the Washington State Office of Public Defense to conduct this evaluation in collaboration with WSBA.

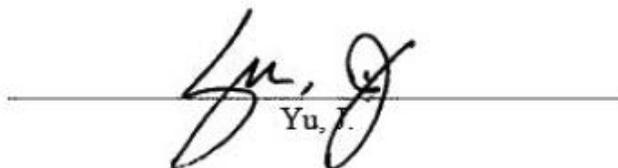
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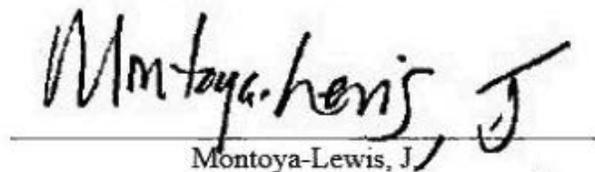
DATED at Olympia, Washington this 15th day of December, 2025.

  
CHIEF JUSTICE

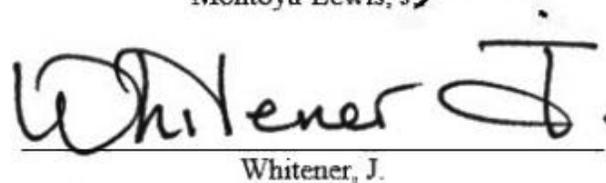
  
Johnson, J.

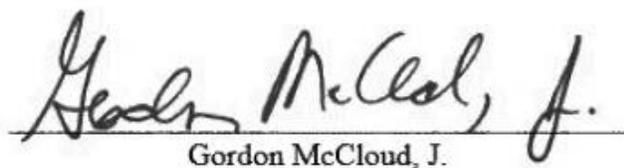
  
Yu, J.

  
Madsen, J.

  
Montoya-Lewis, J.

  
González, J.

  
Whitener, J.

  
Gordon McCloud, J.

  
Mungia, J.

**AMENDMENTS TO  
CrR 3.1/CrRLJ 3.1/JuCR 9.2  
STANDARDS FOR INDIGENT DEFENSE**

**Preamble**

The Washington Supreme Court adopts the following sStandards to address certain basic elements of public defense practice related to the effective assistance of counsel. The Certification of Appointed Counsel of Compliance with Standards Required by CrR 3.1/ CrRLJ 3.1/JuCR 9.2/~~MPP 2.1~~ references specific “Applicable Standards.” The “Applicable Standards” are those referenced in these court rules and when relevant, the Washington State Bar Association Standards for Indigent Defense Services. The cCourt adopts these additional sStandards beyond those required for certification ~~as guidance for public defense attorneys in to~~ addressing the issues identified in *State v. A.N.J.*, 168 Wn.2d 91 (2010). The standards are applicable to individual attorneys and remain pertinent to contracts that defense attorneys negotiate and sign.<sup>1</sup> including the suitability of contracts that public defense attorneys may negotiate and sign. To the extent that certain sStandards may refer to or be interpreted as referring to local governments, the cCourt recognizes the authority of its rRules is limited to attorneys and the courts. Local courts and clerks are encouraged to develop protocols for procedures for receiving and retaining cCertifications (see Certification of Compliance Instructions and Form at the end of these standards).

**Standard 1. Compensation**

[RESERVED]

**Standard 2. Duties and Responsibilities of Counsel**

[RESERVED]

Counsel shall be provided in all situations in which the right to counsel attaches.

**Standard 3. Caseload Limits and Types of Cases**

**Standard 3.1.** The contract or other employment agreement shall specify the types of cases for which representation shall be provided and the maximum number of cases which each attorney shall be expected to handle.

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<sup>1</sup> The terms “public defense attorneys,” “defense attorneys,” “defender,” “contract attorneys,” “appointed lawyers,” and “assigned counsel,” as used in these standards all have the same meaning: a lawyer who is appointed at public expense to represent a person in a criminal, juvenile, civil commitment, or family defense matter.

**Standard 3.2.** The caseload of ~~public defense~~ appointed attorneys shall allow each lawyer to give each client the time and effort necessary to ensure effective representation. ~~Neither d~~ Defender organizations, county offices, contract attorneys, ~~nor~~ and assigned counsel ~~should~~ shall not accept workloads that, by reason of their excessive size, interfere with the rendering of quality representation. As used in this ~~s~~ Standard, “quality representation” means ~~is intended to describe~~ the minimum level of attention, care, and skill that Washington citizens would expect of their state’s criminal justice system.

**Standard 3.3. General Considerations.** Caseload limits reflect the maximum caseloads for fully supported full-time ~~defense~~ appointed attorneys for cases of average complexity and effort in each case type specified. Caseload limits assume a reasonably even distribution of cases throughout the year.

The increased complexity of practice in many areas will require lower caseload limits. The maximum caseload limit should be adjusted downward when the mix of case assignments is weighted toward offenses or case types that demand more investigation, legal research and writing, use of experts, use of social workers, or other expenditures of time and resources. Attorney caseloads should be assessed by the workload required, and cases and types of cases should be weighted accordingly.

If a ~~defender or assigned~~ appointed counsel is carrying a mixed caseload including cases from more than one category of cases, these standards should be applied proportionately to determine a full caseload. In jurisdictions where ~~assigned~~ appointed counsel or contract attorneys also maintain private law practices, the caseload should be based on the percentage of time the lawyer devotes to public defense.

The experience of a particular attorney is a factor in the composition of the case types in the attorney’s caseload, but it is not a factor in adjusting the applicable numerical caseload limits except as follows: attorneys with less than six months of full time criminal defense experience as an attorney should not be assigned more than two-thirds of the applicable maximum numerical caseload limit. This provision applies whether or not the public defense system uses case weighting.

The determination of an attorney’s ability to accept new case assignments must include an assessment of the impact of their open caseload on their ability to provide quality representation.

The following types of cases fall within the intended scope of the caseload limits for criminal and juvenile offender cases in standard 3.4 and must be taken into account when assessing an attorney’s numerical caseload: partial case representations, sentence violations, specialty or therapeutic courts, transfers, extraditions, representation of material witnesses, petitions for conditional release or final discharge, and other matters that do not involve a new criminal charge.

~~Definition of case. A case is defined as the filing of a document with the court naming a person as defendant or respondent, to which an attorney is appointed in order to provide~~

representation. In courts of limited jurisdiction multiple citations from the same incident can be counted as one case.

**Standard 3.4. Caseload Limits.** Effective January 1, 2026, the caseload standard for each full-time appointed felony attorney for any 12-month period shall be of a full-time public defense attorney or assigned counsel should not exceed the following:

150 47 felonies case credits per attorney per year; or and

300 for each full-time appointed misdemeanor attorney for any 12-month period shall be 120 misdemeanor cases credits per attorney per year or, in jurisdictions that have not adopted a numerical case weighting system as described in this standard, 400 cases per year; or and

250 juvenile offender cases per attorney per year; or

80 open juvenile dependency cases per attorney; or

for each full-time appointed attorney for a respondent in civil commitment proceedings for any 12-month period shall be 250 civil commitment cases credits.<sup>2</sup> per attorney per year; or

Beginning July 1, 2026, family defense attorneys<sup>3</sup> shall not represent more than 45 family defense clients or carry more than 60 open and active cases at any given time; and beginning July 1, 2028, family defense attorneys shall not represent more than 35 family defense clients or carry more than 40 open and active cases at any given time.

Actual caseload count will depend on the numerical case weighting system that local jurisdictions may adopt, consistent with standards 3.5 and 3.6. State agencies responsible for administering family defense representation may also adopt case weighting standards. Case weighting models should consider the Washington State Bar Association (WSBA) Standards for Indigent Defense Services for case weighting.

1 active death penalty trial court case at a time plus a limited number of non-death-penalty cases compatible with the time demand of the death penalty case and consistent with the professional requirements of standard 3.2; or

The caseload of a full-time appointed attorney shall not exceed 30 36 appeals to an appellate court hearing a case on the record and briefs per attorney per year. The caseload standard shall be reduced to 25 beginning January 1, 2027. (The 36 standard assumes

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<sup>2</sup> Implementation of these mandatory caseload standards must be accomplished as soon as reasonably possible. Implementation of these standards may, however, be accomplished in a phased approach with an annual reduction of at least 10% of the difference between the standard in effect prior to January 1, 2026 and the new standard (as measured on January 1, 2026), until the new standard has been met. Full compliance must occur no later than ten years from January 1, 2026. The reduction and timeframe do not allow for any increase in caseloads, even in jurisdictions that are already ahead of the court's implementation schedule. Similarly, failing to implement annual reductions is contrary to implementation "as soon as reasonably possible." See Supreme Court Clarifying Order No. 25700-A-1671, filed November 6, 2025.

<sup>3</sup> "Family defense" is the practice of representing all people statutorily and constitutionally entitled to legal representation in cases under RCW 13.34, 13.36, and 13.38, et seq.

experienced appellate attorneys handling cases with records transcripts of an average length of 350 pages. If attorneys do not have significant appellate experience and/or the record average transcript length is greater than average 350 pages, the caseload should be accordingly reduced.)

Full-time rule 9 interns who have not graduated from law school may not have caseloads that exceed twenty-five percent (25%) of the caseload limits established for full-time attorneys.

In public defense systems in which attorneys are assigned to represent groups of clients at first appearance or arraignment calendars without an expectation of further or continuing representation for cases that are not resolved at the time (except by dismissal) in addition to individual case assignments, the attorneys' maximum caseloads should be reduced proportionally recognizing that preparing for and appearing at such calendars requires additional attorney time. This provision applies both to systems that employ case weighting and those that do not.

Resolutions of cases by pleas of guilty to criminal charges on a first appearance or arraignment docket are presumed to be rare occurrences requiring careful evaluation of the evidence and the law, as well as thorough communication with clients, and may must be counted as one case. This provision applies both to systems that employ case weighting and those that do not.

In public defense systems in which attorneys are assigned to represent groups of clients in routine review hearing calendars in which there is no potential for the imposition of sanctions, the attorneys' maximum caseloads should be reduced proportionally by the amount of time they spend preparing for and appearing at such calendars. This provision applies whether or not the public defense system uses case weighting.

**Standard 3.5. Case Counting and Weighting.** Case weighting to measure credits is permissible and encouraged. Attorneys may not count cases using a case weighting system, unless pursuant to written policies and procedures that have been adopted and published by the ~~local~~ government entity responsible for employing, contracting with, or appointing them. Such case weighting may use the method in the Rand Study relied upon by the WSBA Council on Public Defense and the rules for weighting contained in the WSBA Standards for Indigent Defense Services. If no case weighting system is adopted, the maximum caseload count is the actual number of cases referenced above for each case type. See Supreme Court Order No. 25700-A-1644, filed June 9, 2025. A weighting system must:

A. recognize the greater or lesser workload required for cases compared to an average case based on a method that adequately assesses and documents the workload involved;

B. be consistent with these ~~s~~Standards, professional performance guidelines, and the Rules of Professional Conduct;

C. not institutionalize systems or practices that fail to allow adequate attorney time for quality representation;

D. be periodically reviewed and updated to reflect current workloads; and

E. be filed with the State of Washington Office of Public Defense.

Cases should be assessed by the workload required. Cases and types of cases should be weighted accordingly. Cases which are complex, serious, or contribute more significantly to attorney workload than average cases should be weighted upward. In addition, a case weighting system should consider factors that might justify a case weight of less than one case.

**Standard 3.6. Case Weighting Examples.** The following are some examples of situations where case weighting might result in representations being weighted as more or less than one case. The listing of specific examples is not intended to suggest or imply that representations in such situations should or must be weighted at more or less than one case, only that they may be, if established by an appropriately adopted case weighting system.

**A. Case Weighting Upward.** Serious offenses or complex cases that demand more-than-average investigation, legal research, writing, use of experts, use of social workers, and/or expenditures of time and resources should be weighted upward and counted as more than one case.

**B. Case Weighting Downward.** Listed below are some examples of situations where case weighting might justify representations being weighted less than one case. However, care must be taken because many such representations routinely involve significant work and effort and should be weighted at a full case or more.

i. Cases that result in partial representations of clients, including client failures to appear and recommencement of proceedings, preliminary appointments in cases in which no charges are filed, appearances of retained counsel, withdrawals or transfers for any reason, or limited appearances for a specific purpose (not including representations of multiple cases on routine dockets).

ii. Cases in the criminal or offender case type that do not involve filing of new criminal charges, including sentence violations, extraditions, representations of material witnesses, and other matters or representations of clients that do not involve new criminal charges. Noncomplex sentence violations should be weighted as at least 1/3 of a case.

iii. Cases in specialty or therapeutic courts if the attorney is not responsible for defending the client against the underlying charges before or after the client's participation in the specialty or therapeutic court. However, case weighting must recognize that numerous hearings and extended monitoring of client cases in such courts significantly contribute to attorney workload and in many instances such cases may warrant allocation of full case weight or more.

iv. Representation of a person in a court of limited jurisdiction on a charge which, as a matter of regular practice in the court where the case is pending, can be and is resolved at an early stage of the proceeding by a diversion, reduction to an infraction, stipulation on continuance, or other alternative noncriminal disposition that does not involve a finding of guilt. Such cases should be weighted as at least 1/3 of a case.

#### **Related Standards**

ABA STANDARDS FOR CRIMINAL JUSTICE: PROSECUTION FUNCTION AND DEFENSE FUNCTION  
Defense Function std. 4-1.2 (3d ed. 1993)

ABA STANDARDS FOR CRIMINAL JUSTICE: PROVIDING DEFENSE SERVICES std. 5-4.3 (3d ed. 1992)

AM. BAR ASS'N, GUIDELINES FOR THE APPOINTMENT AND PERFORMANCE OF DEFENSE COUNSEL  
IN DEATH PENALTY CASES (rev. ed. 2003)

ABA Comm. on Ethics & Prof'l Responsibility, Formal Op. 06-441 (2006) (Ethical Obligations of Lawyers Who  
Represent Indigent Criminal Defendants When Excessive Caseloads Interfere With Competent and Diligent  
Representation)

Am. Council of Chief Defenders, Statement on Caseloads and Workloads (Aug. 24, 2007)

ABA House of Delegates, Eight Guidelines of Public Defense Related to Excessive Caseloads (Aug. 2009)

TASK FORCE ON COURTS, NAT'L ADVISORY COMM'N ON CRIMINAL STANDARDS & GOALS,  
COURTS std. 13.12 (1973)

MODEL CODE OF PROF'L RESPONSIBILITY DR 6-101.

ABA House of Delegates, The Ten Principles of a Public Defense Delivery System (Feb. 2002)

ABA House of Delegates, Standards of Practice for Lawyers Who Represent Children in Abuse and Neglect Cases  
(Feb. 1996)

Nat'l Legal Aid & Defender Ass'n, Am. Council of Chief Defenders, Ethical Opinion 03- 01 (2003).

Nat'l Legal Aid & Defender Ass'n, Standards for Defender Services std. IV-1 (1976)

Nat'l Legal Aid & Defender Ass'n, Model Contract for Public Defense Services (2000)

Nat'l Ass'n of Counsel for Children, NACC Recommendations for Representation of Children in Abuse and Neglect  
Cases (2001)

Seattle Ordinance 121501 (June 14, 2004)

Indigent Defense Servs. Task Force, Seattle-King County Bar Ass'n, Guidelines for Accreditation of Defender  
Agencies Guideline 1 (1982)

Wash. State Office of Pub. Defense, Parents Representation Program Standards of Representation (2009)

BUREAU OF JUDICIAL ASSISTANCE, U.S. DEP'T OF JUSTICE, INDIGENT DEFENSE SERIES NO. 4,  
KEEPING DEFENDER WORKLOADS MANAGEABLE (2001) (NCJ 185632)

#### **Standard 4. Responsibility of Expert Witnesses**

[RESERVED]

#### **Standard 5. Administrative Costs**

**Standard 5.1.** [Reserved.]

**Standard 5.2.**

A. Contracts for public defense services should provide for or include administrative costs associated with providing legal representation. These costs should include but are not limited to travel; telephones; law library, including electronic legal research; electronic document filing; financial accounting; case management systems; legal system databases and programs; computers and software; equipment; office space and supplies; internet services; training; ~~meeting the reporting requirements imposed by these standards~~; and other costs necessarily incurred for public defense representation and necessary to comply with the requirements imposed by these standards in the day-to-day management of the contract.

B. Appointed Public defense attorneys shall have (1) access to an office that accommodates confidential meetings with clients and receipt of mail (2) ~~a postal address~~, and adequate telephone and electronic services to ensure prompt response to client contact. Appointed counsel and clients shall have prompt and consistent access to interpreter services in order to facilitate communication between counsel and client.

## **Standard 6. Investigators**

**Standard 6.1.** Public defense attorneys shall use investigation services as appropriate.

## **Standards 7-12**

[RESERVED]

## **Standard 8. Reports of Compliance**

In order to ensure compliance with these caseload standards, jurisdictions should adopt a reliable means for accurate reporting of caseloads. In addition, all appointed defense attorneys should use a case-reporting and management information system that includes the number and types of assigned cases, attorney hours, and case dispositions. Data from these systems should be routinely reported to public defense administrators in a manner that shields confidential, secret, and otherwise nonpublic information from disclosure. Consistent with Standard 11 of the WSBA Standards for Indigent Defense Services, public defense administrators and the Office of Public Defense should review these reports on a regular basis to monitor compliance with these standards.

Certification forms shall be filed by every appointed attorney in each trial court case file in criminal and juvenile offender cases, and civil commitment proceedings under chapter 71.05 RCW.

## **Standards 9-12**

[RESERVED]

### **Standard 13. Limitations on Private Practice**

Private attorneys who provide public defense representation shall set limits on the amount of privately retained work which can be accepted. These limits shall be based on the percentage of a full-time caseload which the public defense cases represent.

### **Standard 14. Qualifications of Attorneys**

#### **Standard 14.1.**

Prior to accepting a case, appointed attorneys shall review and certify that they meet the applicable qualifications outlined in Standard 14 of the WSBA Standards for Indigent Defense Services. The appointed attorney shall file the Certification of Compliance Form in each trial court case file in criminal and juvenile offender cases, and civil commitment proceedings under chapter 71.05 RCW.

~~In order to assure that indigent accused receive the effective assistance of counsel to which they are constitutionally entitled, attorneys providing defense services shall meet the following minimum professional qualifications:~~

~~A. Satisfy the minimum requirements for practicing law in Washington as determined by the Washington Supreme Court; and~~

~~B. Be familiar with the statutes, court rules, constitutional provisions, and case law relevant to their practice area; and~~

~~C. Be familiar with the Washington Rules of Professional Conduct; and~~

~~D. Be familiar with the Performance Guidelines for Criminal Defense Representation approved by the Washington State Bar Association; when representing youth, be familiar with the Performance Guidelines for Juvenile Defense Representation approved by the Washington State Bar Association; and when representing respondents in civil commitment proceedings, be familiar with the Performance Guidelines for Attorneys Representing Respondents in Civil Commitment Proceedings approved by the Washington Bar Association; and~~

~~E. Be familiar with the Washington State Guidelines for Appointed Counsel in Indigent Appeals; and~~

~~F. Be familiar with the consequences of a conviction or adjudication, including possible immigration consequences and the possibility of civil commitment proceedings based on a criminal conviction; and~~

~~G. Be familiar with mental health issues and be able to identify the need to obtain expert services; and H. Complete seven hours of continuing legal education within each calendar year in courses relating to their public defense practice. [Adopted effective October 1, 2012; Amended effective April 24, 2018; February 1, 2021; September 1, 2021.]~~

**Standard 14.2. Attorneys' qualifications according to severity or type of case<sup>4</sup>:**

**A. Death Penalty Representation.** ~~Each attorney acting as lead counsel in a criminal case in which the death penalty has been or may be decreed and which the decision to seek the death penalty has not yet been made shall meet the following requirements:~~

- ~~i. The minimum requirements set forth in Section 1; and~~
- ~~ii. At least five years' criminal trial experience; and~~
- ~~iii. Have prior experience as lead counsel in no fewer than nine jury trials of serious and complex cases which were tried to completion; and~~
- ~~iv. Have served as lead or co-counsel in at least one aggravated homicide case; and~~
- ~~v. Have experience in preparation of mitigation packages in aggravated homicide or persistent offender cases; and~~
- ~~vi. Have completed at least one death penalty defense seminar within the previous two years; and~~
- ~~vii. Meet the requirements of SPRC 2.5~~

~~The defense team in a death penalty case should include, at a minimum, the two attorneys appointed pursuant to SPRC 2, a mitigation specialist, and an investigator. Psychiatrists, psychologists, and other experts and support personnel should be added as needed.~~

**B. Adult Felony Cases—Class A.** Each attorney representing a defendant accused of a Class A felony as defined in RCW 9A.20.020 shall meet the following requirements:

- ~~i. The minimum requirements set forth in Section 1; and~~

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<sup>4</sup>Attorneys working toward qualification for a particular category of cases under this standard may associate with lead counsel who is qualified under this standard for that category of cases.

<sup>5</sup>SPRC 2 APPOINTMENT OF COUNSEL At least two lawyers shall be appointed for the trial and also for the direct appeal. The trial court shall retain responsibility for appointing counsel for trial. The Supreme Court shall appoint counsel for the direct appeal. Notwithstanding RAP 15.2(f) and (h), the Supreme Court will determine all motions to withdraw as counsel on appeal. A list of attorneys who meet the requirements of proficiency and experience, and who have demonstrated that they are learned in the law of capital punishment by virtue of training or experience, and thus are qualified for appointment in death penalty trials and for appeals will be recruited and maintained by a panel created by the Supreme Court. All counsel for trial and appeal must have demonstrated the proficiency and commitment to quality representation which is appropriate to a capital case. Both counsel at trial must have five years' experience in the practice of criminal law (and) be familiar with and experienced in the utilization of expert witnesses and evidence, and not be presently serving as appointed counsel in another active trial level death penalty case. One counsel must be, and both may be, qualified for appointment in capital trials on the list, unless circumstances exist such that it is in the defendant's interest to appoint otherwise qualified counsel learned in the law of capital punishment by virtue of training or experience. The trial court shall make findings of fact if good cause is found for not appointing list counsel. At least one counsel on appeal must have three years' experience in the field of criminal appellate law and be learned in the law of capital punishment by virtue of training or experience. In appointing counsel on appeal, the Supreme Court will consider the list, but will have the final discretion in the appointment of counsel.

ii. Either:

a. ~~has served two years as a prosecutor; or~~

b. ~~has served two years as a public defender; or two years in a private criminal practice; and~~

iii. ~~Has been trial counsel alone or with other counsel and handled a significant portion of the trial in three felony cases that have been submitted to a jury.~~

**C. Adult Felony Cases—Class B Violent Offense.** Each attorney representing a defendant accused of a Class B violent offense as defined in RCW 9A.20.020 shall meet the following requirements:

i. ~~The minimum requirements set forth in Section 1; and~~

ii. Either;

a. ~~has served one year as a prosecutor; or~~

b. ~~has served one year as a public defender; or one year in a private criminal practice; and~~

iii. ~~Has been trial counsel alone or with other counsel and handled a significant portion of the trial in two Class C felony cases that have been submitted to a jury.~~

**D. Adult Sex Offense Cases.** Each attorney representing a client in an adult sex offense case shall meet the following requirements:

i. ~~The minimum requirements set forth in Section 1 and Section 2(C); and~~

ii. ~~Has been counsel alone of record in an adult or juvenile sex offense case or shall be supervised by or consult with an attorney who has experience representing juveniles or adults in sex offense cases.~~

**E. Adult Felony Cases—All Other Class B Felonies, Class C Felonies, Probation or Parole Revocation.** Each attorney representing a defendant accused of a Class B felony not defined in Section 2(C) or (D) above or a Class C felony, as defined in RCW 9A.20.020, or involved in a probation or parole revocation hearing shall meet the following requirements:

i. ~~The minimum requirements set forth in Section 1, and~~

ii. Either:

a. ~~has served one year as a prosecutor; or~~

b. ~~has served one year as a public defender; or one year in a private criminal practice; and~~

iii. ~~Has been trial counsel alone or with other trial counsel and handled a significant portion of the trial in two criminal cases that have been submitted to a jury; and~~

~~iv. Each attorney shall be accompanied at his or her first felony trial by a supervisor if available.~~

**F. Persistent Offender (Life Without Possibility of Release) Representation.** ~~Each attorney acting as lead counsel in a “two strikes” or “three strikes” case in which a conviction will result in a mandatory sentence of life in prison without parole shall meet the following requirements:~~

~~i. The minimum requirements set forth in Section 1;6 and~~

~~ii. Have at least:~~

~~a. four years’ criminal trial experience; and~~

~~b. one year’s experience as a felony defense attorney; and~~

~~c. experience as lead counsel in at least one Class A felony trial; and~~

~~d. experience as counsel in cases involving each of the following:~~

~~1. Mental health issues; and~~

~~2. Sexual offenses, if the current offense or a prior conviction that is one of the predicate cases resulting in the possibility of life in prison without parole is a sex offense; and~~

~~3. Expert witnesses; and~~

~~4. One year of appellate experience or demonstrated legal writing ability.~~

**G. Juvenile Cases—Class A.** ~~Each attorney representing a juvenile accused of a Class A felony shall meet the following requirements:~~

~~i. The minimum requirements set forth in Section 1, and~~

~~ii. Either:~~

~~a. has served one year as a prosecutor; or~~

~~b. has served one year as a public defender; or one year in a private criminal practice; and~~

~~iii. Has been trial counsel alone of record in five Class B and C felony trials; and~~

~~iv. Each attorney shall be accompanied at his or her first juvenile trial by a supervisor, if available.~~

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<sup>6</sup> RCW 10.101.060(1)(a)(iii) provides that counties receiving funding from the state Office of Public Defense under that statute must require “attorneys who handle the most serious cases to meet specified qualifications as set forth in the Washington state bar association endorsed standards for public defense services or participate in at least one case consultation per case with office of public defense resource attorneys who are so qualified. The most serious cases include all cases of murder in the first or second degree, persistent offender cases, and class A felonies.”

**H. Juvenile Cases—Classes B and C.** Each attorney representing a juvenile accused of a Class B or C felony shall meet the following requirements:

- i. The minimum requirements set forth in Section 1; and
- ii. Either:
  - a. has served one year as a prosecutor; or
  - b. has served one year as a public defender; or one year in a private criminal practice; and
- iii. Has been trial counsel alone in five misdemeanor cases brought to a final resolution; and
- iv. Each attorney shall be accompanied at his or her first juvenile trial by a supervisor if available.

**I. Juvenile Sex Offense Cases.** Each attorney representing a client in a juvenile sex offense case shall meet the following requirements:

- i. The minimum requirements set forth in Section 1 and Section 2(H); and
- ii. Has been counsel alone of record in an adult or juvenile sex offense case or shall be supervised by or consult with an attorney who has experience representing juveniles or adults in sex offense cases.

**J. Juvenile Status Offenses Cases.** Each attorney representing a client in a “Becca” matter shall meet the following requirements:

- i. The minimum requirements as outlined in Section 1; and
- ii. Either:
  - a. have represented clients in at least two similar cases under the supervision of a more experienced attorney or completed at least three hours of CLE training specific to “status offense” cases; or
  - b. have participated in at least one consultation per case with a more experienced attorney who is qualified under this section.

**K. Misdemeanor Cases.** Each attorney representing a defendant involved in a matter concerning a simple misdemeanor or gross misdemeanor or condition of confinement, shall meet the requirements as outlined in Section 1.

**L. Dependency Cases.** Each attorney representing a client in a dependency matter shall meet the following requirements:

- i. The minimum requirements as outlined in Section 1; and

- ~~ii. Attorneys handling termination hearings shall have six months' dependency experience or have significant experience in handling complex litigation.~~
- ~~iii. Attorneys in dependency matters should be familiar with expert services and treatment resources for substance abuse.~~
- ~~iv. Attorneys representing children in dependency matters should have knowledge, training, experience, and ability in communicating effectively with children, or have participated in at least one consultation per case either with a state Office of Public Defense resource attorney or other attorney qualified under this section.~~

**M. Civil Commitment Cases.** Each attorney representing a respondent shall meet the following requirements:

- ~~i. The minimum requirements set forth in Section 1; and~~
- ~~ii. Each staff attorney shall be accompanied at his or her first 90 or 180 day commitment hearing by a supervisor; and~~
- ~~iii. Shall not represent a respondent in a 90 or 180 day commitment hearing unless he or she has either:~~
  - ~~a. served one year as a prosecutor; or~~
  - ~~b. served one year as a public defender; or one year in a private civil commitment practice; and~~
  - ~~c. been trial counsel in five civil commitment initial hearings; and~~
- ~~iv. Shall not represent a respondent in a jury trial unless he or she has conducted a felony jury trial as lead counsel; or been co-counsel with a more experienced attorney in a 90 or 180 day commitment hearing.~~

**N. Sex Offender "Predator" Commitment Cases.** Generally, there should be two counsel on each sex offender commitment case. The lead counsel shall meet the following requirements:

- ~~i. The minimum requirements set forth in Section 1; and~~
- ~~ii. Have at least:~~
  - ~~a. Three years' criminal trial experience; and~~
  - ~~b. One year's experience as a felony defense attorney or one year's experience as a criminal appeals attorney; and~~
  - ~~c. Experience as lead counsel in at least one felony trial; and~~
  - ~~d. Experience as counsel in cases involving each of the following:~~
    - ~~1. Mental health issues; and~~
    - ~~2. Sexual offenses; and~~

3. Expert witnesses; and

e. Familiarity with the Civil Rules; and

f. One year of appellate experience or demonstrated legal writing ability.

Other counsel working on a sex offender commitment case should meet the minimum requirements in Section 1 and have either one year's experience as a public defender or significant experience in the preparation of criminal cases, including legal research and writing and training in trial advocacy.

**O. Contempt of Court Cases.** Each attorney representing a respondent shall meet the following requirements:

i. The minimum requirements set forth in Section 1; and

ii. Each attorney shall be accompanied at his or her first three contempt of court hearings by a supervisor or more experienced attorney, or participate in at least one consultation per case with a state Office of Public Defense resource attorney or other attorney qualified in this area of practice.

**P. Specialty Courts.** Each attorney representing a client in a specialty court (e.g., mental health court, drug diversion court, homelessness court) shall meet the following requirements:

i. The minimum requirements set forth in Section 1; and

ii. The requirements set forth above for representation in the type of practice involved in the specialty court (e.g., felony, misdemeanor, juvenile); and

iii. Be familiar with mental health and substance abuse issues and treatment alternatives. [Adopted effective October 1, 2012.]

### **Standard 14.3. Appellate Representation.**

Each attorney who is counsel for a case on appeal to the Washington Supreme Court or to the Washington Court of Appeals shall meet the following requirements:

A. The minimum requirements as outlined in Section 1; and

B. Either:

i. has filed a brief with the Washington Supreme Court or any Washington Court of Appeals in at least one criminal case within the past two years; or

ii. has equivalent appellate experience, including filing appellate briefs in other jurisdictions, at least one year as an appellate court or federal court clerk, extensive trial level briefing, or other comparable work.

C. Attorneys with primary responsibility for handling a death penalty appeal shall have at least five years' criminal experience, preferably including at least one homicide trial and at least six appeals from felony convictions, and meet the requirements of SPRC 2.

~~RALJ Misdemeanor Appeals to Superior Court: Each attorney who is counsel alone for a case on appeal to the Superior Court from a court of limited jurisdiction should meet the minimum requirements as outlined in Section 1, and have had significant training or experience in either criminal appeals, criminal motions practice, extensive trial level briefing, clerking for an appellate judge, or assisting a more experienced attorney in preparing and arguing a RALJ appeal. [Adopted effective October 1, 2012.]~~

#### **Standard 14.4. Legal Interns.**

~~A. Legal interns must meet the requirements set out in APR 9.~~

~~B. Legal interns shall receive training pursuant to APR 9, and in offices of more than seven attorneys, an orientation and training program for new attorneys and legal interns should be held. [Adopted effective October 1, 2012.]~~

#### **Standards 15-18**

~~[RESERVED]~~

#### **Standard 15. Disposition of Client Complaints**

Standard 15.1 Jurisdictions that administer public defense services should provide a process for receiving, investigating, and promptly responding to client complaints. Complaints should first be directed to the assigned attorney, firm, or agency that is providing or provided representation.

Standard 15.2 Public defense agencies and contractors with multi-attorney private firms should include investigation and disposition of client complaints in their supervisory services.

Standard 15.3 The complaining client should be informed about the disposition of their complaint in a timely manner.

#### **Standard 16**

~~[RESERVED]~~

#### **Standard 17. Nondiscrimination**

Public defense services and appointed lawyers shall comply with all laws prohibiting discrimination on the grounds of race, ethnicity, religion, national origin, language, age, marital status, gender identity, sexual orientation, or disability.

#### **Standard 18. Guidelines for Awarding Defense Contracts**

Judges, judicial staff, city attorneys, county prosecutors, and law enforcement offices shall not select the attorneys who will be included in a contract or an assigned counsel list. See GR 42.

## CERTIFICATION OF COMPLIANCE

For criminal and juvenile offender cases, and civil commitment proceedings under chapter 71.05 RCW, a signed Certification of Compliance with Applicable Standards must be filed by an appointed attorney by separate written certification ~~on a quarterly basis~~ in each ~~court~~ case in which the attorney has been appointed as counsel and on a quarterly basis with each court or appointing authority. Certifications may be made available to the public upon request.

The certification must be in substantially the following form:

### SEPARATE CERTIFICATION FORM

<p style="text-align: center;">_____ <b>Court of Washington</b></p> <p>for _____</p> <hr/> <p>State of Washington _____,</p> <p style="text-align: right;">Plaintiff</p> <p>vs.</p> <p>_____ ,</p> <p style="text-align: right;">Defendant</p>	<p>[ ] No.: _____</p> <p>[ ] <u>Check if</u> Administrative Filing</p> <p>[ ] Case file No. _____</p> <p style="text-align: center;">CERTIFICATION OF APPOINTED COUNSEL OF COMPLIANCE WITH STANDARDS REQUIRED BY CrR 3.1 / CrRLJ 3.1 / JuCR 9.2</p>
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The undersigned attorney hereby certifies:

1. I \_\_\_\_\_ (print lawyer's name) am familiar with the current Standards for Indigent Defense adopted by the Supreme Court which apply to attorneys appointed to represent indigent clients.
2. I file certification forms in each court and in each case in which I am appointed to provide indigent defense representation.
3. Approximately \_\_\_\_\_ % of my total practice time is devoted to indigent defense cases. Approximately \_\_\_\_\_ % of my total practice time is devoted to indigent defense cases in this court.
4. I am appointed in other courts to provide indigent defense representation. My practice time in each of those other courts is approximately as follows: \_\_\_ Not Applicable  
Court: \_\_\_\_\_ % of total practice: \_\_\_\_\_  
Court: \_\_\_\_\_ % of total practice: \_\_\_\_\_

Court: \_\_\_\_\_ % of total practice: \_\_\_\_\_

5. Caseload: I limit the number of cases and mix of case types to the caseload limits required by Standards 3.2, 3.3, and 3.4, provided that the graduated implementation of these standards as authorized in Standard 3.4 is compliant with the standards adopted. My caseload is prorated to the percentage of my practice devoted to indigent defense.
6. Qualifications: I meet the minimum basic professional qualifications in the current ~~revised~~ WSBA Standards for Indigent Defense Services. I am familiar with the specific case qualifications in the WSBA Standards for Indigent Defense Services and accept appointment as lead counsel only when I meet the qualifications for that case.
7. Office: I have access to an office that accommodates confidential meetings, ~~a postal address~~, receipt of mail, and adequate telephone and communication services as required by Standard 5.2.
8. Investigators: I have investigators available to me and use investigative services as appropriate, as required by Standard 6.1.

\_\_\_\_\_  
Signature, WSBA#

\_\_\_\_\_  
Date