

TO: Washington State Bar Association, Board of Governors  
FROM: Candice Bock, Association of Washington Cities  
DATE: March 6, 2024  
RE: Comments on the Council of Public Defense Proposed Revised Standards for Indigent Defense and Caseload Limits

To the Washington State Bar Association Board of Governors,

The Association of Washington Cities (AWC) has substantial concerns with the proposed changes to the Washington Standards for Indigent Defense amending CrR 3.1, CrRLJ 3.1, JuCR 9.1, and CCR 2.1. Cities are committing to providing effective assistance of counsel as guaranteed by the 6<sup>th</sup> and 14<sup>th</sup> amendments to the US Constitution, and we recognize that those in need of a public defender are often some of the most vulnerable members of our communities. However, rapidly tripling the required number of public defense attorneys will only exacerbate current challenges and render the criminal judicial system non-functional.

### **The proposed standards are financially not feasible for municipalities**

Adoption of a substantial reduction in caseload standards should not be done in isolation by the bar association and the Supreme Court, but rather must be a coordinated effort with the legislature. The State currently funds a small fraction of public defense costs, and the vast majority of the expenses are born by local governments. Public defense costs are paid out of a city's general fund budget; funding for a city's general fund is statutorily and constitutionally limited. Cities are constrained not only by the limits of their resident's ability to pay, but also by legal restrictions on the city's ability to raise revenue. A tripling of the required number of misdemeanor public defense attorneys would be a tremendous cost that far exceeds the capacities of cities to fund.

If adopted, local government funding constraints will result in cities facing an untenable choice to cut critical programs, including funding for other court staff and judicial programs, as well as human service programs designed to address root causes of criminal behavior and keep individuals out of the criminal justice system.

Lastly, to implement reduced caseload standards, jurisdictions will require not only additional state funding, but also a concerted legislative effort to increase the workforce pipeline for public defenders and support staff.

### **Even if funding were available, there is an inadequate workforce to meet the proposed caseload standards**

As noted throughout the recommendations from the Council for Public Defense, nationally we are experiencing a significant shortage of public defense attorneys. Even if state funding were instantaneously provided to support the required workforce, there would not be a sufficient number of attorneys available to meet the required caseload numbers:

- By July 2025, misdemeanor caseload standards would be reduced from 400 cases per year to 280 cases per year. Meaning that 15 months from now, we would need 70% more misdemeanor public defenders than we have today, in addition to the increased number of felony defense attorneys required under the proposed caseload standards.

- By July 2026, the proposed misdemeanor caseload standards would be reduced from 280 cases per year to 225 per year.
- By July 2027, the proposed misdemeanor caseload standards would be reduced to 200 cases per year. This would require double the number of misdemeanor public defense attorneys compared to our current workforce. When considered in combination with the reduction in felony caseload standards, this would mean the state would need roughly triple the number of public defense attorneys.

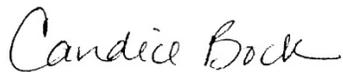
Even if funding were provided by the state, jurisdictions will not be able to hire triple the number of public defense attorneys in three years compared to today. A reduced caseload standard will not result in three-times as many individuals being interested in pursuing a career in public defense in such a short amount of time.

AWC supports careful consideration to the caseload standards for indigent defense attorneys. However, implementation of a large reduction in caseload standards must be accompanied by state investments in public defense, as well as legislative efforts to increase the workforce pipeline for defense attorneys, support staff, prosecutors, victim's advocates, defense investigators, and social workers.

If caseload standards are adopted without adequate state funding and a workforce pipeline to support the required caseload standards, the current challenges in the criminal justice system will only be further exacerbated. We ask that the Board of Governors not adopt the recommendations for amendments to the indigent defense caseload standards.

We appreciate the opportunity to comment on the standards under consideration, and we are available to answer any questions.

Regards,



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Association of Washington Cities