

WSR 24-16-095
RULES OF COURT
STATE SUPREME COURT
[June 10, 2024]

IN THE MATTER OF THE) ORDER
SUGGESTED AMENDMENTS TO) NO. 25700-A-1568
STANDARDS FOR INDIGENT)
DEFENSE—CrR 3.1 STDS/CrRLJ 3.1)
STDS/JuCR 9.2 STDS)

The Washington State Bar Association (WSBA), having recommended that the Court amend the Standards for Indigent Defense applicable to CrR 3.1, CrRLJ 3.1, and JuCR 9.2 to incorporate WSBA's revised Standards for Indigent Defense Services, and the Court having approved the suggested amendments for publication on an expedited basis;

Now, therefore, it is hereby

ORDERED:

(a) That pursuant to the provisions of GR 9(g), the suggested amendments as shown below are to be published expeditiously for comment in the Washington Reports, Washington Register, Washington State Bar Association and Administrative Office of the Court's websites.

(b) The purpose statement as required by GR 9(e) is published solely for the information of the Bench, Bar, and other interested parties.

(c) Comments are to be submitted to the Clerk of the Supreme Court by either U.S. Mail or Internet E-Mail by no later than October 31, 2024. Comments may be sent to the following addresses: P.O. Box 40929, Olympia, Washington 98504-0929, or supreme@courts.wa.gov. Comments submitted by e-mail message must be limited to 1500 words.

(d) The Court will hold two public hearings on the suggested amendments, at dates and times to be announced separately. One public hearing will be held before the comment period closes, and one public hearing will be held after the comment period closes.

DATED at Olympia, Washington this 10th day of June, 2024.

For the Court

Gonzales, C.J.

CHIEF JUSTICE

GR 9 COVER SHEET
Suggested Amendments to
STANDARDS FOR INDIGENT DEFENSE SERVICES
REVISED CrR 3.1 Stds/CrRLJ 3.1 Stds/JuCR 9.2 Stds

A. Name of Proponent:

Washington State Bar Association
WSBA Council on Public Defense

B. Spokespersons:

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C. Purpose:

Public defense in Washington is facing a crisis of attrition and an inability to recruit staff brought about by excessive workloads and poor compensation. Attorneys are resigning from the public defense profession in droves because they cannot continue the work given the volume of cases. In recognition of these problems, in January 2022, the WSBA Council on Public Defense (CPD) undertook a comprehensive revision of the WSBA Standards for Indigent Defense Services. In addition, following release of the National Public Defense Workload Study in September 2023, the Justices of the Washington Supreme Court requested that the CPD specifically address caseload standards.

In developing revised WSBA Standards, the CPD solicited input from the public and the criminal defense community at listening sessions, CLE events, CPD meetings, and through surveys. The CPD considered all feedback when revising the WSBA Standards. In addition, the revisions to the WSBA Standards were informed by the 2023 National Public Defense Workload Study; other studies of appropriate caseload and support staffing needs of public defense offices; and Constitutional, ethical, and professional standards for public defenders.

The revisions to the WSBA Standards focus on three areas: (1) Support staff requirements, (2) attorney qualifications, and (3) caseload standards. Revisions in all three areas were necessary to recognize the realities of current public defense practice, ensure the Standards met Constitutional requirements, and to address public defender attrition and difficulty recruiting new attorneys to the profession.

First, the revised WSBA Standards require, rather than simply recommend, public defense agencies to maintain specific staffing ratios for investigators, mitigation specialists and social workers, and legal assistants and paralegals. These revisions recognize the importance of support staff in public defense cases, particularly given the large volume to evidence and investigation necessary to provide adequate defense.

Second, the revisions to attorney qualification requirements attempt to address the shortage of attorneys qualified to handle the most serious cases. The revisions allow attorneys to gain experience through trial experience even if the trial was not completed through a jury verdict and through training programs. These revisions are to be implemented over the course of the next four years.

Lastly, the revised WSBA Standards implement the caseload standards recommended by the National Public Defense Workload Study (NPDWS). The NPDWS report made clear that the existing caseload standards did not allow attorneys sufficient time to provide representation that met Constitutional requirements. The findings of the NPDWS report were applied to Washington's caseloads through a system that grants a specific number of credits for categories of cases based on the typical time-demands of the case. Attorneys accrue case credits up to a maximum number of credits per year.

The CPD presented proposed the revised WSBA Standards of Indigent Defense to the WSBA Board of Governors on March 8, 2024. The WSBA Board of Governors adopted the revisions and voted to forward the revised WSBA Standards to the Supreme Court with the recommendation that the Court incorporate the WSBA Standards into the Washington Supreme Court Standards for Indigent Defense.

D. Hearing:

A hearing is not requested.

E. Expedited Consideration:

Expedited consideration is requested.

F. Supporting Material:

- Cover memo to the WSBA Board of Governors dated February 23, 2024
- Council on Public Defense Report on Revisions to WSBA Standards of Public Defense
- Redline revisions to WSBA Standards of Indigent Defense Services
- Public Comments Received by the WSBA Board of Governors found here: https://wsbaonline.sharepoint.com/:f:/r/personal/parise_wsba_org/Documents/Revised%20Standards%20Feedback?csf=1&web=1&e=j1ZUPm (this link will expire April 20, 2024)

Suggested Amendments to

CrR 3.1/CrRLJ 3.1/JuCR 9.2

STANDARDS FOR INDIGENT DEFENSE

Preamble

The Washington Supreme Court adopts the following Standards 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/~~MPR 2.1~~ references specific "Applicable Standards." The Court adopts additional Standards beyond those required for certification as guidance for public defense attorneys in addressing issues identified in *State v. A.N.J.*, 168 Wn.2d 91 (2010), including the suitability of contracts that public defense attorneys may negotiate and sign. To the extent that certain Standards may refer to or be interpreted as referring to local governments, the Court recognizes the authority of its Rules is limited to attorneys and the courts. Local courts and clerks are encouraged to develop protocols for procedures for receiving and retaining Certifications.

Definitions

1. Assigned Counsel - Attorneys who provide public defense services in a local jurisdiction who are not employees of a Public Defense Agency, often without a formal contract; frequently referred to as panel or conflict attorneys.

2. Case - A "case" is a new court filing or action that names a person who is eligible for appointment of a public defense attorney; for example, an adult criminal charging instrument, a juvenile court offender or BECCA petition, a dependency or termination of parental rights petition, a civil commitment petition, or an appeal. For additional explanation in relation to caseload capacity, refer to Standards 3.H and 3.I.

3. Case Weighting/Credits - A case weighting system assigns higher and lower values or weighted case credits to assigned cases based on the amount of time that is typically required to provide effective representation.

4. Caseload - The number of cases assigned to a public defense attorney in a 12-month period.

5. Co-counsel - An additional public defense attorney assigned to a case with the originally assigned attorney (lead counsel).

6. Defense Investigator - A non-lawyer legal professional who guides and executes the defense investigation of a client's case. Defense Investigators perform substantive work that requires full knowl-

edge of court proceedings, court rules, and Washington State law. A Defense Investigator's review of case evidence requires an understanding of government investigative procedures and regulations, a familiarity with forensic disciplines, the aptitude to stay current with advancements in technology, and an ability to ascertain factual discrepancies. They may interview witnesses identified by the police investigation, as well as identify, locate, and interview witnesses unknown to the State. Defense Investigators may gather evidence useful to the defense by recording witness statements, conducting field investigations, photographing the crime scene, gathering records, and taking screenshots of online materials. A Defense Investigator's preservation of evidence is critical to trial preparations, as they can testify to lay the foundation for that evidence, as well as explain case details and assist with impeachment of witnesses. The use of a Defense Investigator is not limited to criminal cases. Defense Investigators are also important professionals in Dependency proceedings, Sexual Offender Commitment petitions, and other proceedings that affect a client's liberty or other constitutionally protected interest.

7. Experts - Individual persons, firms, or businesses who provide a high level of knowledge or skill in a particular subject matter, such as DNA or crime scene analyses, and assist public defense attorneys in providing legal representation for their client.

8. Flat Fee Agreement - A contract or informal policy agreement where a private attorney or firm agrees to handle an unlimited number of cases for a single flat fee.

9. Fully Supported Defense Attorneys - Public defense attorneys who meet or exceed Standards Four, Five, Six, Seven, Nine, Ten, Thirteen and Fourteen of these Standards.

10. Jurisdictions - State, county and city entities that provide public defense services.

11. Legal Assistant - A non-lawyer legal professional who assists the attorney with administrative tasks. Legal Assistants often are responsible for filing pleadings generated by the lawyer or paralegal and ensuring the timely processing of mail and legal documents to meet court mandated deadlines. They may answer phones and assist with communications between the defense team, clients, defense experts, witnesses, and others. Some Legal Assistants are responsible for calendaring, opening and closing case files, updating case management systems, processing legal discovery (electronic or otherwise), and ensuring that critical information is accurately conveyed and recorded, if needed.

12. Lead Counsel - A lead counsel is the main lawyer in charge of a case. They are usually the most experienced and manage any other lawyers working on the case.

13. Mitigation Specialist - A mental health professional, a social worker, or social services provider, with specialized training or experience who gathers biographical, medical, and family history of the client to assist the lawyer, including preparing a document to inform the court and/or prosecutor or State of factors in the client's life. Mitigation Specialists also help clients navigate social service support and prepare for assessments.

14. Open Caseload - The number of assigned cases a public defender has that are actively open. Open Caseload is a day-in-time snapshot of a public defender's caseload; whereas, "Caseload" is the number of assigned cases in a year.

15. Paralegal - A non-lawyer legal professional, frequently a graduate of an ABA-approved Paralegal Studies program, who does sub-

stantive work that requires familiarity with court proceedings, court rules, and Washington State law. Paralegals are frequently responsible for performing complex legal research and drafting legal documents such as subpoenas, pleadings, and motions and creating discovery binders, preparing exhibits, coordinating witness schedules, and assisting with organization at counsel table. Paralegals may assist the attorney with client communication and act as a liaison with defense experts, prosecutors, bailiffs, and jail officials. They also may track upcoming court hearings, trial dates, and other critical timelines to help with attorney organization.

16. Per Case Agreement - A contract or informal policy agreement where a private attorney or firm agrees to handle cases on a flat, per case amount.

17. Private Attorneys - An attorney who works in private practice who provides public defense services whether by contract, subcontract, assignment, appointment, or other process.

18. Private Firm - For-profit law firm that provides public defense services, whether by contract, subcontract, assignment, appointment, or other process.

19. Public Defender - Any person working as or with a public defense attorney, firm, or public defense agency whether an attorney, social worker, office administrator, investigator, mitigation specialist, paralegal, legal assistant, human resources specialist, data analyst, etc.

20. Public Defense Administrator - Person, whether attorney or not, who is responsible overall for the administration, management, and oversight of public defense.

21. Public Defense Agency - Government and nonprofit offices that only provide public defense representation.

22. Public Defense Attorney - A private attorney, attorney working in a private firm, or an attorney working in a public defense agency who is assigned to represent individuals who are indigent or indigent and able to contribute and have a statutory or constitutional right to court-assigned counsel.

23. Reasonable Compensation - Market rate for similar legal and expert services. Reasonable compensation includes more than attorney wages, salary, benefits, contract payments or hourly rate payments. Reasonable Compensation includes the cost of office overhead (including administrative costs), support staff or services, training, supervision, and other services not separately funded.

24. Significant Portion of a Trial - Planning or participating in essential aspects of a trial which includes, but is not limited to, motions in *limine*, jury selection, opening statements, direct and cross examination, motions and objections, preparation of and advocacy for jury instructions, and closing arguments.

25. Social Worker - A public defense professional with a master's degree in Social Work who provides professional services to assist the attorney and to help meet the basic and complex needs of the client. Often, this can involve enrolling in health care or other government support services.

26. Trial Academy - An organized trial training program of at least 20 hours of sessions that is presented by the Washington State Office of Public Defense, the Washington Defender Association, the Washington Association of Criminal Defense Attorneys, the National Association of Criminal Defense Lawyers, the National Institute for Trial Advocacy, the National Association for Public Defense, the Gault Center, the National Criminal Defense College, Gideon's Promise, or

any other organization approved for CLE training by the Washington State Bar Association. A trial academy must include defender skills training that may encompass motion practice, opening and closing statements, objections, preserving issues for appeal, direct and cross examination, race bias, client communication, theory of the case, jury selection, and other topics.

27. Workload - The amount of work a public defense attorney has, including direct client representation and work not directly attributable to the representation of a specific client, including, for example, administration, supervision, and professional development.

Standard 1: Compensation

[RESERVED]

Standard:

1.A. Public Defense Agency Salaries and Benefits.

Employees at public defense agencies shall be compensated at a rate commensurate with their training and experience. Compensation and benefit levels shall be comparable to those of attorneys and staff in prosecution or other opposing party offices in the area. Compensation shall also include necessary administrative costs described in Standard Five, support services costs described in Standard Seven, and training and supervision costs described in Standards Nine and Ten.

1.B. Contract and Assigned Counsel Compensation.

Compensation for public defense attorneys in contract and assigned counsel systems shall reflect the professional experience, time, and labor required for effective and quality representation. Compensation shall also be based on the comparable compensation and benefits associated with prosecution or other opposing party offices in the area. Compensation shall also include necessary administrative costs described in Standard Five, support services costs described in Standard Seven, and training and supervision costs described in Standards Nine and Ten.

Reasonable compensation shall be provided whether the work is for full-time or part-time public defense attorneys. Reasonable contract or assigned counsel compensation rates shall be set at least on a pro rata basis consistent with the attorney's percentage of a full caseload (see Standard 3). For example, if a jurisdiction allocates \$280,000 per year per full-time equivalent (FTE) prosecuting attorney for all costs associated with that FTE, including but not limited to combined salary, benefits, support staff, administrative, information technology, insurance, bar dues, training, and facilities expenses, then a contract for one-fourth of a full-time public defense caseload should be at least \$70,000.

Contracts and government budgets shall recognize the need to provide reasonable compensation for all public defense attorneys, including but not limited to, those attorneys who are "on call," staff court calendars, or staff specialty or therapeutic courts.

1.C. Flat Fee and Per Case Compensation Agreements.

Attorneys shall not engage in flat fee or per case compensation contracts or agreements. These compensation structures create an actual conflict for the public defense attorney.¹

Consistent with Washington Rule of Professional Conduct 1.8 (m) (1) (ii), public defense attorneys shall not make or participate in making an agreement with a governmental entity for the delivery of indigent defense services if the terms of the agreement obligate the contracting lawyer or law firm to bear the cost of providing investi-

gation or expert services, unless a fair and reasonable amount for such costs is specifically designated in the agreement in a manner that does not adversely affect the income or compensation allocated to the lawyer, law firm, or law firm personnel.

1.D. Additional Compensation.

Consistent with RCW 10.101.060 (1)(a)(iv), contracts and policies shall provide for additional compensation over and above the base contract amount(s) for cases that require an extraordinary amount of time and preparation.

Situations that require additional compensation include, but are not limited to:

- Days spent in trial, if no per diem is paid
- Testimonial motion hearings
- Interpreter cases
- Cases involving mental health competency and other issues (RCW 10.77)
- Cases with extensive discovery
- Cases that involve a significant number of counts, alleged victims or witnesses
- Cases requiring consultation with experts, including, for example, immigration legal analysis and advice or DNA testing and analysis.

Attorneys should have the opportunity to submit requests for additional compensation for extraordinary cases and the right to appeal an adverse decision to a judicial officer.

1.E. Substitute Attorney Costs.

Consistent with Washington Rule of Professional Conduct 1.8 (m)(1)(i), attorneys who have a conflict of interest shall not be required to bear the cost of the new, substituted attorney.

Standard 2: Duties and Responsibilities of Counsel

{RESERVED}

Standard:

Jurisdictions that administer public defense services shall ensure that representation be provided in all situations in which the right to counsel attaches, including first appearances and bail decisions, as well as plea negotiations.

Representation shall be prompt and delivered in a professional, skilled manner consistent with minimum standards set forth by these Standards, the Washington State Bar Association's Standards for Indigent Defense Services, the American Bar Association, the Washington Rules of Professional Conduct, case law and relevant court rules and orders defining the duties of counsel. The applicable WSBA or ABA Performance Guidelines should serve as guidance for attorney performance. The most fundamental responsibility of jurisdictions and public defense attorneys is to promote and protect the stated interests of public defense clients.

Standard 3: Caseload Limits and Types of Cases

Standard:

~~Standard 3.1.~~ 3.A. The contract or other employment agreement or government budget shall specify the types of cases for which representation shall be provided and the maximum number and types of cases in which each attorney shall be expected to handle provide quality representation.

~~Standard 3.2.~~ 3.B. Quality Representation.

~~The maximum caseload or workload of public defense attorneys shall allow each lawyer attorney to give each client the time and effort necessary to ensure effective representation. Neither defender organizations, county offices, contract attorneys nor assigned counsel Public defense attorneys should not enter into contracts requiring caseloads or accept workloads that, by reason of their excessive size, interfere with the rendering of quality representation. If the attorney's caseload or workload prevents providing quality representation,² public defense attorneys shall take steps to reduce their caseload, including but not limited to seeking co-counsel, reassignment of cases, or requesting a partial or complete stop to additional case assignments or requesting withdrawal from a case(s). If the attorney's workload is within the limits in this standard there is a presumption that they can provide quality representation. As used in this Standard, "quality representation" is intended to describe the minimum level of attention, care and skill that Washington citizens would expect of their state's criminal justice system.~~

~~If a public defense agency or nonprofit's workload exceeds the Director's capacity to provide counsel for newly assigned cases, the Director must notify courts and appointing authorities that the provider is unavailable to accept additional assignments and must decline to accept additional cases.³~~

~~Standard 3.3. General Considerations. 3.C. Open Caseload.~~

~~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.~~

~~3.D. Fully Supported, Full-Time Public Defense Attorneys.~~

~~Caseload limits reflect the maximum caseloads for The maximum caseloads or workloads for public defense attorneys assume an attorney's public defense work is: 1) full-time (exclusively public defense); 2) fully supported; 3) full-time defense attorneys for cases of average complexity and effort for in each case type specified; and 4). Caseload limits assume a reasonably evenly distributedion of cases throughout the year. "Fully supported, full-time defense attorneys" are attorneys who meet or exceed Standards Four, Five, Six, Seven, Nine, Ten, Thirteen and Fourteen of these Standards.~~

~~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.~~

~~3.E. Mix of Case Types and Private Practice.~~

~~If a public defense attorney accepts appointment to If a defender or assigned counsel is carrying a mixed caseload including cases from more than one category of cases case type, thiese standards should be applied proportionately to determine a maximum full caseload.~~

~~Attorneys should not accept more public defense cases than the percentage of time their other work and commitments allow. In jurisdictions where assigned counsel or contract attorneys also maintain private law practices, The number of public defense cases or case credits easeload should be based on the percentage of time the lawyer devotes to available for the attorney to represent public defense clients. Each individual or organization that contracts to perform public~~

defense services for a county or city shall report to the county or city hours billed for nonpublic defense legal services in the previous calendar year, including number and types of private cases.⁴

3.F. Attorney Experience.

~~The experience of a particular attorney is a factor in the composition of the cases 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 public 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.~~

3.G. Impact of Public Defense Time Other Than Case Appointments.

Assessing an attorney's maximum caseload or workload limit must include accounting for work in addition to new cases assigned. Time spent on vacation, sick leave, holidays, training, supervision, administrative duties, and court improvement work groups must also be accounted for.

~~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.~~

3.H. Definition of case.

~~A "case" is defined as the a new court filing or action that of a document with the court namesing a person who is eligible for appointment of a public defense attorney; for example, an adult criminal charging instrument, a juvenile court offender or BECCA petition, a dependency or termination of parental rights petition, a civil commitment petition, or an appeal.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.~~

3.I Adult Criminal and Juvenile Court Offender Trial Court Cases

1. Adult Criminal and Juvenile Court Offender Cases

a. An attorney appointed to an Adult Criminal or Juvenile Court Offender case receives the case weight/credit or hours credit toward the attorney's annual caseload that is listed in Standard 3.J. and in the Appendix. In multi-count cases, the charge with the highest case category dictates the case's credit or hourly value. If the highest charge is amended or otherwise changed to a charge that is more serious than originally charged, the attorney(s) shall receive the additional case credit value. In the event a charge is amended to a less serious charge, the attorney shall still be given caseload credit for the original, higher charge as of the time the attorney was appointed to the case.

b. A charging document filed against a client arising out of a single event or series of events and being prosecuted together is presumed to be one case. Determining whether a case number is one or multiple cases is determined by the supervisor or appointing agency after reviewing the charging information, amended charging documents, or an order to sever counts.

2. Reappointment. Reappointment of the previously appointed attorney to a case in which a bench warrant was issued does not count as a new case if the warrant was issued within the twelve months prior to the reappointment. New case credits can be awarded as approved by a supervisor or appointment authority on a case-by-case basis.

3. Partial Representation. The following must be taken into account when assessing an attorney's numerical caseload or when adjusting case credits assigned to attorney: partial case representations (cases in which an attorney withdraws or is substituted pursuant to CrR 3.1(e) and CrRLJ 3.1(e)), sentence or probation violations, cases in specialty or therapeutic courts, transfers, extraditions, representations of material witnesses, pretrial advice including "on-call" availability, petitions for conditional release or final discharge, and other matters that do not involve a new criminal charge. Time spent by attorneys representing multiple clients on first appearance, arraignment, or other calendaring hearings must be accounted for in reducing the number of maximum trial cases that can be assigned.

a. Transferred Case. When a public defense attorney's representation ends prior to the entry of a final order or judgment (for example, attorney withdrawal pursuant to CrR 3.1(e) or CrRLJ 3.1(e), the supervising attorney or appointing authority shall determine the case credit value to be awarded to each attorney based on the amount of time each attorney contributes.

b. Co-Chairs. When two or more lawyers are assigned as co-chairs, the supervising attorney or appointing authority shall determine the case credit value to be awarded to each attorney based on the amount of time each attorney contributes, including mentoring by the non-supervisor lead counsel.

c. Transferred and Co-Chaired cases frequently take more time to complete than the average case. Additional credits may need to be applied. For the case category Felony High-Murder and Felony High-LWOP case types, there is a presumption that two or more lawyers will be assigned as co-chairs.

d. Court Calendar Positions.

i. Specialty or Therapeutic Courts: a criminal case resulting in admission to a Specialty or Therapeutic Court generally should not count as a case for the attorney covering the Specialty or Therapeutic Court. The case credit shall be applied exclusively to the originally assigned attorney(s) prior to the transfer into a Specialty or Therapeutic Court.

ii. Calendar Coverage: A criminal case appearing on a calendar where an attorney provides partial representation with no expectation of additional representation after the initial hearing shall not count as a case for the attorney covering the court calendar. This partial representation can include but is not limited to representing clients on: probable cause or first appearance calendars; arraignment calendars; failures to appear, warrant return, quash, and recommencement of proceedings calendars; preliminary appointments in cases in which no charges are filed; extradition calendars; and other matters or representations of clients that do not involve new criminal charges.

iii. Court Calendar Attorney Time: The workload of Specialty and Therapeutic Court attorneys and attorneys designated, appointed, or contracted to represent groups of clients on a court docket, without an expectation of further or continuing representation, shall be assessed and subtracted from the annual, assumed 1,650 hours monitored by the supervising attorney or appointing authority to ensure the attorney does not work more than 1,650 hours in a 12-month period.

4. Probation Violation Cases. Appointment of a public defense attorney to represent a person on one or more original case numbers where a probation violation(s) or show cause order(s) has been filed is presumed to count as 1/3 credit of the Felony or Misdemeanor Case Credit. Additional case credits can be awarded as approved by a supervisor or appointing authority on a case-by-case basis.

3.J. Maximum Case Credit Limit for Adult Criminal and Juvenile Court Offender Cases Each Year.

This Section shall be implemented according to the schedule in Section 3.0.

The maximum number of case credits for a fully supported, full-time public defense attorney each calendar year is based on an assumed 1,650-hour "case-related hours" available each year. This number represents the assumed time an attorney in Washington has available each year to devote to public defense clients' representation. It excludes annual time for leave (for example, vacation, sick, PTO, FMLA) holidays, CLEs and training, supervision, and other time that is not "case-related").⁵

The maximum annual caseload case credits for each category of Adult Criminal and Juvenile Court Offender cases are based on the National Public Defense Workload Study (September 2023).⁶

Standard 3.4 Caseload Limits: The caseload of a full-time public defense attorney or assigned counsel shall not exceed the following:

150 felonies per attorney per year; or

300 misdemeanor cases 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

250 juvenile offender cases per attorney per year; or

80 open juvenile dependency cases per attorney; or

250 civil commitment cases per attorney per year; or

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

36 appeals to an appellate court hearing a case on the record and briefs per attorney per year. (The 36 standard assumes experienced appellate attorneys handling cases with transcripts of an average length of 350 pages. If attorneys do not have significant appellate experience and/or the average transcript length is greater than 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 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.

The maximum annual caseload for a full-time **felony** attorney is 47 case credits.

Case credits for each Felony case category appointment shall be as follows (see the Appendix for case types falling within each category):

| | | |
|---------------------|------------|-----|
| Felony High-LWOP: | <u>7</u> | 8 |
| Felony High-Murder: | <u>7</u> | 7 |
| Felony High-Sex: | <u>5</u> | 5 |
| Felony High: | <u>3</u> | 3 |
| Felony Mid: | <u>1.5</u> | 1.5 |
| Felony Low: | <u>1</u> | 1 |

The maximum annual caseload for a full-time **misdemeanor** attorney is 120 case credits.

Case credits for each Misdemeanor case category appointment shall be as follows:

| | |
|-------------------|------------|
| Misdemeanor High: | <u>1.5</u> |
| Misdemeanor Low: | <u>1</u> |

If a case resolves relatively quickly, before an attorney has done significant work on the matter, the attorney will be credited with a proportional, reduced amount of the credits initially assigned.

3.K. Other Case Types.⁸

Appeals: 36 appeals to an appellate court hearing a case on the record and briefs per attorney per year. (The 36 standard assumes experienced appellate attorneys handling cases with transcripts of an average length of 350 pages. If attorneys do not have significant appellate experience and/or the average transcript length is greater than 350 pages, the caseload should be accordingly reduced.)

Family Defense: 80 open dependency/termination of parental rights for parent and child(ren) representation per attorney per year.

Civil Commitment: 250 Civil Commitment cases per attorney per year.

Standard 3.5. Case Counting and Weighting. 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. 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 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 upwards. In addition, a case weighting system should consider factors that might justify a case weight of less than one case.

3.L. Additional Considerations.

1. Caseload limits require a reasonably even number of case appointments each month, based on the number of cases appointed in prior months.

2. 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 must be counted as 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 Upwards: 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 upwards 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. Non-complex 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.

3.M. Full-Time Rule 9 Interns.

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

3.N. Attorneys in Jurisdictions that Do Not Follow Case Credit System in Standard 3.J.

Attorneys in jurisdictions that do not use the case credit system in Standard 3.J shall be employed by, contract with, or be appointed by the local government entity responsible for those functions only if the jurisdiction has adopted and published a numerical caseload or workload maximum that is consistent with the caseload and workload limits set in Standard 3.J. Such a caseload or workload maximum must:

a) Recognize the greater or lesser workload required for cases compared to an average based on a method that adequately assesses and documents the workload involved;

b) Be consistent with these Standards, professional performance guidelines, and the Rules of Professional Conduct;

c) Not institutionalize systems or practices that fail to allow adequate attorney time for competent and diligent representation;

d) Be periodically reviewed and updated to reflect current workloads; and be filed with the State of Washington Office of Public Defense.

3.O. Implementation of Standards.

Standard 3 shall be implemented in phases and shall go into effect on July 2, 2025. The revisions to these Standards for Indigent Defense shall be implemented on the following schedule:

Until July 2, 2025, the caseload standards as adopted in the pre-existing Standards for Indigent Defense shall apply: The caseload of a full-time public defense attorney or assigned counsel shall not exceed the following:

150 Felonies per attorney per year;

300 Misdemeanor cases 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;

250 Juvenile Offender cases per attorney per year.

Phase 1:

Beginning July 2, 2025, within the twelve months following, each full-time felony attorney shall be assigned cases constituting no more than 110 felony case credits and each full-time misdemeanor attorney shall be assigned cases constituting no more than 280 misdemeanor case credits.

Phase 2:

Beginning July 2, 2026, within the twelve months following, each full-time felony attorney shall be assigned cases constituting no more than 90 felony case credits and each full-time misdemeanor attorney shall be assigned cases constituting no more than 225 misdemeanor case credits.

Phase 3:

Beginning July 2, 2027, and for any twelve-month period following, each full-time felony attorney shall be assigned cases constituting no more than 47 felony case credits and each full-time misdemeanor attorney shall be assigned cases constituting no more than 120 misdemeanor case credits.

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:

4.A. Expert Witnesses

Jurisdictions that administer public defense services shall provide reasonable compensation for expert witnesses necessary for preparation and presentation of the case. Expert witness costs should be maintained and allocated from funds separate from those provided for attorney legal representation.

Jurisdictions shall adopt and publish procedures to confidentially receive, review, and grant requests for expert witness services. In jurisdictions where attorneys are required to request approval for expert witnesses or other necessary services from the court, such motions shall be ex parte and include a motion to seal. The public defense attorney should be free to retain the expert of their choosing and shall not be required to select experts from a list pre-approved by either the jurisdiction, the court, or the prosecution.

4.B. Mitigation Specialists, Social Workers

Mitigation specialists and social workers shall be made readily available to public defense attorneys to provide support, such as re-

lease plans, treatment services, housing, health care, and to develop dispositional and sentencing alternatives.

In public defense agencies, by July 3, 2028, a minimum of one full-time mitigation specialist or social worker shall be provided for every three full-time attorneys. Public defense agencies shall make meaningful progress towards this ratio prior to July 3, 2028.⁹ Attorneys representing clients in post-adjudication phases may require different resources. Public defense agencies that do not employ a sufficient number of mitigation specialists or social workers to meet this ratio shall enter into contracts with additional mitigation specialists or social workers to provide the same resource level.

Temporary reductions in agency staff because of illness, disability, or reasonable delay in filling vacancies do not constitute failure to comply with this standard. Attorneys representing clients in post-adjudication phases may require different resources.

Public defense attorneys under contract or in assigned counsel systems should have access to mitigation specialists and social workers, consistent with 4.A.

4.C. Mental Health Professionals for Evaluations

Each public defense agency or attorney shall have access to mental health professionals to perform mental health evaluations.

4.D. Interpreters and Translators

All individuals providing public defense services (attorneys, investigators, experts, support staff, etc.) shall have access to qualified interpreters to facilitate communication with Deaf and hearing-impaired individuals, and persons with limited English proficiency. Similarly, all public defense providers shall have access to translators to translate vital documents and resources from English to the client's primary language.¹⁰

4.E. Cost of Expert Services

Consistent with Washington Rule of Professional Conduct (RPC) 1.8 (m) (1) (ii), attorneys shall not be required to bear the costs of expert services.

Standard 5: Administrative Costs

~~Standard 5.1. [Reserved.]~~

~~Standard 5.2~~

5.A. Administrative Services Necessary for Law Offices

~~Jurisdictions shall provide funding for 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.~~

~~Providing for these costs is necessary for all public defense structures, including agency, contract, and assigned counsel systems.~~

~~Administrative costs for contract and assigned counsel services shall be included in compensation rates and agreements.~~

~~5.B. Law Offices Must Accommodate Confidential, Prompt, and Consistent Client Communication~~

All public defense attorneys shall have (1) access to an office that accommodates confidential meetings with clients and receipt of mail, and (2) a postal address, and adequate telephone and electronic services to ensure prompt response to client contact. Public defense attorneys and clients must have prompt and consistent access to interpreter services

Standard 6: Investigators

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

Standard:

6.A. Access to Investigation Services

Public defense representation must include access to investigation services. Public defense-led investigation is necessary for representing clients for purposes of verifying facts, identifying and questioning witnesses, and testing the evidence presented by the opposing party.

6.B. Investigation for Public Defense Agencies

In public defense agencies, by July 3, 2028, a minimum of one full-time investigator shall be employed for every three full-time trial court level (adult and/or juvenile) attorneys.¹¹ Public defense agencies shall make meaningful progress towards this ratio prior to July 3, 2028. Public defense agencies that do not employ a sufficient number of investigators to meet this ratio shall enter into contracts with additional investigators to provide the stated resource level. Temporary reductions in agency staff because of illness, disability, or reasonable delay in filling vacancies do not constitute failure to comply with this standard. Attorneys representing clients in post-adjudication phases may require different investigation resources.

6.C. Investigation for Contract and Assigned Counsel

When public defense attorneys work under contracts or assigned counsel systems, jurisdictions must ensure that they have the same level of access to investigators as described in 6.B. Local jurisdictions shall adopt and publish confidential procedures to receive, review, and grant requests for investigation services. In jurisdictions where attorneys are required to request court approval for investigative services, such motions shall be *ex parte*, consistent with the requirements of Washington Rule of Professional Conduct 1.8 (m)(1)(ii) and court rules.

6.D. Investigation for Pro Se Litigants

All jurisdictions should make conflict free investigation services available to indigent defendants or respondents who are representing themselves in all cases in which the court has approved waiver of their right to court-appointed counsel.

6.E. Cost of Investigation Services

Consistent with Washington Rule of Professional Conduct 1.8 (m)(1)(ii), attorneys shall not be required to bear the costs of investigation services.

~~Standards 7-12~~

~~{Reserved}~~

Standard 7: Support Services

Standard:

7.A. Support Services Necessary for Legal Defense

In addition to the necessary resources described in Standards Four, Five, and Six, public defense attorneys shall have adequate legal and administrative support. Legal and administrative support serv-

ices include, but are not limited to, administrative assistants, legal assistants, paralegals, human resources, finance, reception services, and IT and data management administrators. These professionals are essential for effective legal defense and an operational law office. Jurisdictions shall ensure all public defense attorneys have access to needed support services as provided in this Standard and as required by Washington Rule of Professional Conduct 1.4 to ensure attorney/client communication.

7.B. Providing for Support Services in Contract and Assigned Counsel Compensation

The support services described in 7.A. are required for all public defense attorneys, regardless of their employment, contract or assigned counsel status. Contract and assigned counsel attorneys shall receive compensation at levels that ensure these non-attorney support services are provided

7.C. Necessary Legal Assistants/Paralegals Ratio

In public defense agencies, by July 3, 2028, a minimum of one full-time legal assistant or paralegal shall be employed for every four full-time attorneys. Public defense agencies shall make meaningful progress towards this ratio prior to July 3, 2028.

Public defense agencies that do not employ a sufficient number of legal assistants or paralegals to meet this ratio should enter into contracts with qualified professionals to provide the same resource level or request authorization of such services *ex parte* or administratively.

Temporary reductions in agency staff because of illness, disability, or reasonable delay in filling vacancies do not constitute failure to comply with this standard. Attorneys representing clients in post-adjudication phases may require different resources.

Standard 8: Reports of Attorney Activity

Standard:

Jurisdictions shall require all public defense attorneys 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 in which confidential, secret and otherwise non-public information and secrets are not disclosed. Consistent with Standard Eleven, public defense administrators should review these reports on a regular basis to monitor compliance with these Standards.

For attorneys under contract, payment should be made monthly, or at times agreed to by the parties, without regard to the number of cases closed in the period.

Standard 9: Training

Standard:

9.A. Annual Training

All public defense attorneys shall participate in regular training, including a minimum of seven hours of continuing legal education annually in areas relating to their public defense practice. Training should include relevant topics including training specific to certain case types as required in Standard Fourteen, the types of cases assigned (for example, criminal, dependency, appellate), racial and ethnic disparities, elimination of bias, mental illnesses, improved and effective communication with clients, forensic sciences, and other topics that impact legal representation. Every public defense attorney

should attend training that fosters trial or appellate advocacy skills and review professional publications and other media.

9.B. Onboarding and Training of New and Current Attorneys

Public defense agencies and contracted private law firms should develop their own practices and procedures to onboard and train new attorneys. Offices should develop written materials (e.g. manuals, checklists, hyperlinked resources) to inform new attorneys of local rules and procedures of the courts in their jurisdiction.

In offices of more than seven attorneys, an orientation and training program for new attorneys and legal interns should be held to inform them of office procedures and policies. All attorneys should be required to attend regular in-house training programs on developments in their legal representation areas.

9.C Continuing Education for Public Defense Non-Attorneys

Funding for training for all public defense non-attorneys must be provided. A fully supported public defense attorney is one whose staff and expert service providers receive educational opportunities and up-to-date trainings to ensure they can meet their profession's best practices. This may include attendance at national conferences and regular access to online trainings, such as those offered by the Washington State Office of Public Defense, Washington Defender Association, the National Association for Public Defense, the National Legal Aid and Defender Association, the National Alliance of Sentencing Advocates and Mitigation Specialists, the National Defense Investigator Association, the National Federation of Paralegal Associations, and the National Association for Legal Support Professionals.

Standard 10: Supervision

Standard:

In public defense agencies and contracted private law firms, a minimum of one full-time supervisor should be employed for every ten full-time public defense attorneys or one half-time supervisor for every five public defense attorneys. Full-time supervisors should not carry caseloads, but supervisors may act as co-counsel in a limited number of cases to provide mentoring and training experience for their supervisees. Part-time supervisors should limit their caseloads on a pro-rata basis. Supervisors should have training in personnel management and supervision. Supervisors should be qualified under Standard 14 for the practice area(s) they are supervising.

Standard 11: Monitoring and Evaluation of Attorneys

Standard:

All jurisdictions shall provide a mechanism for systematic monitoring of public defense attorneys and their caseloads and ensure timely review and evaluation of public defense services. Monitoring and evaluation should include, but not be limited to, review of reports submitted per Standard Eight, review of time and caseload assignments, in-court observations, periodic conferences, verification of attorney compliance with Standard Nine training requirements, verification of compliance with Certifications of Compliance with these Standards, and management of client complaints, consistent with Standard Fifteen.

Attorneys should be evaluated on their skill and effectiveness as advocates, including their communication with clients.

Standard 12: Substitution of Counsel

Standard:

12.A. Availability at No Cost to Attorney.

Consistent with Standard 1.E, alternate or conflict public defense attorneys shall be available for substitution in conflict situations at no cost to the attorney declaring the conflict.

12.B. Subcontracting.

Public defense contracts and assigned counsel policies should prohibit counsel from subcontracting with another firm or attorney to provide representation, absent approval of the public defense administrator.

12.C. Attorney Names.

In contract and assigned counsel systems, the public defense administrator should receive the names and experience levels of those attorneys who will be and actually are providing the legal representation, to ensure the attorneys meet the minimum qualifications required by Standard 14.

12.D. Continuing Representation and Client Files.

Public defense contracts and assigned counsel policies shall address the procedures for continuing representation of clients upon the conclusion of the contract or case assignment. Public defense contracts and assigned counsel policies shall include which attorney or firm or public defense office is responsible for maintaining client files confidentially when a contract terminates or case assignment ends.¹²

Standard 13: Limitations on Private Practice**Standard:**

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:**

~~Standard 14.1.~~ 14.A. Minimum Qualifications for All Public Defense Attorneys

~~In order to~~ To assure ensure that persons entitled to legal representation by public defense attorneys indigent accused people receive the effective assistance of counsel to which they are constitutionally entitled, public defense attorneys providing defense services shall meet the following minimum professional qualifications:

~~A1.~~ Be admitted to practice law in Washington Satisfy the minimum requirements for practicing law in Washington as determined by the Washington Supreme Court; and

~~B2.~~ Be familiar with the statutes, court rules, constitutional provisions, and case law relevant to their practice area; and

~~C3.~~ Be familiar with the Washington Rules of Professional Conduct; and

~~D4.~~ 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 State Bar Association; when representing respondents in

dependency proceedings, be familiar with Dependency (parent/child) performance guidelines referenced in 14.C.2, below; and

E5. 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 processes to seek interlocutory relief; and

F6. Be familiar with mental health issues and be able to identify the need to obtain expert services the Washington State Guidelines for Appointed Counsel in Indigent Appeals; and

G7. Attorneys representing adults in criminal cases or children and youth in Juvenile Court cases must be familiar with the consequences of a conviction or adjudication, including but not limited to, the requirement to register as a sex offender, possible immigration consequences and the possibility of civil commitment proceedings based on a criminal conviction and possible impacts in future criminal proceedings;

8. Be familiar with the impact of systemic bias and racism and racial disproportionality in the legal system;

9. Be familiar with mental health and substance use issues and be able to identify the need to obtain expert services related to the case and for the client;

10. Attorneys representing children and youth in Juvenile Court cases must have knowledge, training, experience, and the ability to communicate effectively with children and youth, and be familiar with the Juvenile Justice Act;

11. Attorneys representing children and youth in dependency cases must have knowledge, training, experience and the ability to communicate effectively with children and youth; and

12. Complete seven hours of continuing legal education within each calendar year in courses relating to their public defense practice.

14.B. Additional Information Regarding Qualifications Overall

1. An attorney previously qualified for a category of case under earlier versions of these Standards or Washington Supreme Court Emergency Orders remains qualified.

2. Attorneys working toward qualification for a particular category of cases may associate as co-counsel with a lead counsel who is qualified under these Standards for that category of case.¹³ Co-counseling is encouraged.

3. These qualifications standards require trial experience for most categories of cases - either as lead counsel, or co-counsel, and for handling a significant portion of a trial. A "significant portion of a trial" means planning or participating in essential aspects of a trial which includes, but is not limited to, motions in limine, jury selection, opening statements, direct and cross examination, motions and objections, preparation of and advocacy for jury instructions, and closing arguments.

4. Each attorney should be accompanied at their first trial by a supervisor or a more experienced attorney, if available. If a supervisor or more experienced attorney is not available to accompany the attorney at their first trial, the attorney, before their first trial, must consult about the case with a more experienced attorney in their office or an outside more experienced attorney such as Washington Defender Association resource attorneys.

5. Each attorney must have sufficient resources, including support staff and access to professional assistance, to ensure effective

legal representation and regular availability to clients and others involved with the attorney's public defense work.

6. These qualifications standards apply to the highest case category or charge at any time in the life of the case; for example, in criminal cases, any time from first appearance or arraignment through sentencing and post-trial motions.

7. Attorneys accepting appointment in the various categories of cases designated in Standard Three shall have the qualifications listed below, in addition to those in 14.A.1-14.A.12.

8. Experience as an Admissions and Practice Rule (APR) 6 or 9 legal intern cannot be used to meet the experience requirements for these qualifications.

14.C. Attorneys' Qualifications by Category/Type of Case and Representation Type (Trial or Appellate)

1. Overview of Adult Criminal and Juvenile Court Cases - Trial Level

a. These qualifications are based on the following categories of cases:

- Misdemeanor-Low and Misdemeanor Probation Revocation Hearings
- Misdemeanor-High
- Felony-Mid and Low
- Felony Sex Cases
- Felony High-Other
- Felony High-Life Without Parole (LWOP) Sentence and Murder
- Felony Re-Sentencing, Probation Violation or Revocation, and Reference Hearings

b. To determine the qualifications standard that applies to a specific offense, the assigning authority should refer to the Appendix to these Standards that maps the RCW statutes to the above categories.

i. If the legislature designates a felony offense as Class A that is, as of January 1, 2024, in a lower case category, the case category should be presumed to be a Felony-High Other until this standard in Appendix lists it otherwise.

ii. If the legislature, after January 1, 2024, changes an offense from a misdemeanor or gross misdemeanor to a felony, that case category should be presumed to be a Felony-Mid and Low until this standard in Appendix lists it otherwise.

iii. If the legislature, after January 1, 2024, creates a new misdemeanor or gross misdemeanor, that case should be presumed to be a Misdemeanor-High until this standard in Appendix lists it otherwise.

c. Until such time as the above case categories are adopted as part of CrR 3.1, CrRLJ 3.1, and JuCr 9.2, the attorney qualifications set out below are largely comparable to case seriousness levels found in the Revised Code of Washington. Attorneys representing clients charged with Life Without Parole (LWOP) cases or in murder or manslaughter cases shall meet the qualifications listed below in Standard 14.C.2. Similarly, Felony-High categories apply to attorneys representing clients in Class A Adult Felony Cases and Adult Sex Offense Cases. The qualifications set out below for the Felony-Mid category apply to attorneys representing clients in Class B Adult Felony Cases and Class B Adult Violent Cases and the qualifications set out below for the Felony-Low category apply to attorneys representing clients in Adult Felony Class C Cases. The qualifications listed below for Felony Re-Sentencing and Revocation and Reference Hearings apply to attorneys representing clients in Felony Probation Revocation cases. The qualifications listed below for DUI-Low category apply to attorneys repre-

sentencing clients in misdemeanor DUI cases. The qualifications listed below for Adult Misdemeanor-Low cases apply to attorneys representing clients in all other adult misdemeanor cases.

~~Standard 14.2. Attorneys' qualifications according to severity or type of case¹⁴:~~

~~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 2.2.¹⁵~~

~~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~~
- ~~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 de-~~

~~fendant 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 1,¹⁶ 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.~~

~~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.~~

2. Adult Criminal Trial Court Cases

~~**a. Misdemeanor Low and Misdemeanor Probation Hearings** - Each attorney representing a person accused of Misdemeanor Low cases or Misdemeanor Probation Hearings shall meet the requirements as outlined in Section 14.A.~~

~~**b. Misdemeanor High Cases** - Each lead counsel representing a person accused of:~~

~~i. A misdemeanor **domestic violence**¹⁷ offense shall meet the requirements in Section 14.A and have attended a defense training or CLE on domestic violence representation.~~

~~ii. A gross misdemeanor **drug offense** shall meet the requirements in Section 14.A and have attended a defense training or CLE on drug offenses.~~

~~iii. A misdemeanor **sex offense**¹⁸ shall meet the requirements in Section 14.A; and~~

~~1. Has served one year as a criminal defense attorney or prosecutor;~~

~~2. Has been trial counsel alone or with other trial counsel and conducted a significant portion of either:~~

~~a. Two criminal cases in which the prosecution has rested, at least one of which was presented to a jury, or~~

b. One criminal trial in which the prosecution has rested and has completed a trial training academy;

3. Has attended a CLE on sex offenses including training about collateral consequences of sex offense convictions and child hearsay.

iv. Each lead counsel representing a person accused of a **misdeemeanor DUI** offense shall meet the requirements in Section 14.A and has completed a CLE within the past two years on the topic of DUI defense representation.

c. **Felony Mid and Felony Low Cases** - Each lead counsel shall meet the following requirements:

i. The minimum requirements set forth in Section 14.A;

ii. Has served one year as a criminal defense attorney or one year as a prosecutor; and

iii. Has been trial counsel alone or with other trial counsel and conducted a significant portion of either:

1. Two criminal trials in which the prosecution rested, or

2. One criminal trial in which the prosecution has rested and has completed a trial training academy.

iv. Each attorney shall be accompanied at their first felony trial by an attorney who is qualified for this or higher case categories.

d. **Felony Sex Cases** - Each lead counsel shall meet the following requirements:

i. The minimum requirements set forth in Section 14.A;

ii. Has served two years as either a criminal defense attorney or prosecutor;

iii. Has been trial counsel alone or with other trial counsel and handled a significant portion of the trial in three felony cases in which the state has rested, at least one of which was submitted to a jury; and

iv. Has attended a CLE on sex offenses, including training about collateral consequences of sex offense convictions and child hearsay.

Failure to Register as a Sex Offender cases are in the Felony-Mid and Low Category.

e. **Felony High - Other Cases** - Each lead counsel shall meet the following requirements:

i. The minimum requirements set forth in Section 14.A;

ii. Has served two years as either a criminal defense attorney or prosecutor; and

iii. Has been trial counsel alone or with other trial counsel and handled a significant portion of the trial in three felony cases in which the state has rested, at least one of which was submitted to a jury.

f. **Felony High - Life Without Parole and Murder Cases** - Each lead counsel shall meet the following requirements:

i. The minimum requirements set forth in Section 14.A;

ii. At least three years' experience in adult felony cases, including at least two years as a defense attorney representing people in adult felony cases;

iii. Has been lead counsel or co-counsel in four adult felony trials in which the state has rested, at least one of which was submitted to a jury and at least one of which was a Felony-High case; and

iv. Has completed a defense training or CLE on mitigation and challenging prior convictions.

g. **Felony Resentencing, Revocation, or Reference Hearing** - Each lead counsel shall meet the following requirements:

i. The minimum requirements set forth in Section 14.A; and

ii. Be qualified to represent the client in a Felony-Mid and Low case.

h. Felony Material Witness Representation - Each attorney representing a material witness shall be qualified to represent a client in Felony-Mid and Felony-Low cases, unless there is reason to believe the witness has legal exposure for a more serious felony offense to be charged, in which case lead counsel shall be qualified to represent a person accused of that more serious offense.

i. Specialty Courts - Each attorney representing a client in a specialty court (e.g., mental health court, drug court, veterans court, homelessness court, juvenile therapeutic court, community court, and family therapeutic court) shall meet the following requirements:

i. The minimum requirements set forth in Section 14.A;

ii. Be familiar with mental health and substance use issues, housing, treatment alternatives, and when representing veterans, resources available for veterans.

3. Juvenile Trial Court Cases - The qualification requirements below apply to representation of respondents in Juvenile Court.

a. Misdemeanor Low and Misdemeanor Probation Hearings - Each attorney representing the accused in Misdemeanor-Low case or Misdemeanor Probation Hearings shall meet the requirements as outlined in Section 14.A.

b. Misdemeanor High Cases - Each lead counsel representing a person accused of:

i. A misdemeanor **domestic violence**¹⁹ offense shall meet the requirements in Section 14.A and have attended a defense training or CLE on domestic violence representation.

ii. A gross misdemeanor **drug offense** shall meet the requirements in Section 14.A and have attended a defense training or CLE on drug offenses.

iii. A misdemeanor **sex offense**²⁰ shall meet the requirements in Section 14.A; and

1. Has served one year as a criminal defense attorney or prosecutor;

2. Has been trial counsel alone or with other trial counsel and conducted a significant portion of either:

a. Two criminal cases in which the prosecution has rested, at least one of which was presented to a judge for verdict, or

b. The significant portion of one criminal trial in which the prosecution has rested and has completed a trial training academy;

3. Has attended a CLE on sex offenses including training about collateral consequences of sex offense adjudications and child hearsay.

c. Felony Mid and Felony Low Cases - Each lead counsel shall meet the following requirements:

i. Meet the requirements set forth in Section 14.A;

ii. Has served one year as a criminal defense attorney or one year as a prosecutor; and

iii. Has been trial counsel alone or with other trial counsel and conducted a significant portion of either:

1. Two criminal trials in which the prosecution rested; or

2. One criminal trial in which the prosecution has rested and has completed a trial training academy.

iv. Each attorney shall be accompanied at their first felony trial by an attorney who is qualified for this or higher case categories.

d. **Felony Sex Cases** - Each lead counsel shall meet the following requirements:

i. The minimum requirements set forth in Section 14.A;

ii. Has served two years as either a criminal defense attorney or prosecutor;

iii. Has been trial counsel alone or with other trial counsel and handled a significant portion of the trial in three felony cases in which the state has rested; and

iv. Has attended a CLE on sex offenses, including training about collateral consequences of sex offense convictions and child hearsay.

Failure to Register as a Sex Offender cases are in the Felony Mid and Low Category.

e. **Felony High - Other Cases** - Each lead counsel shall meet the following requirements:

i. The minimum requirements set forth in Section 14.A;

ii. Has served two years as either a criminal defense attorney or prosecutor; and

iii. Has been trial counsel alone or with other trial counsel and handled a significant portion of the trial in three felony cases in which the state has rested, at least one of which was submitted to a judge or jury for verdict.

f. **Felony High - Murder Cases** - Each lead counsel shall meet the following requirements:

i. The minimum requirements set forth in Section 14.A;

ii. At least three years' experience in adult felony cases, including at least two years as a defense attorney representing persons in adult felony cases; and

iii. Has been lead counsel or co-counsel in four adult felony trials in which the state has rested, at least one of which was submitted to a judge for verdict and at least one of which was a Felony-High case.

g. **Felony Resentencing, Revocation, or Reference Hearing** - Each lead counsel shall meet the following requirements:

i. The minimum requirements set forth in Section 14.A; and

ii. Is qualified to represent the client in a Felony-Mid and Low case.

h. **Specialty Courts** - Each attorney representing a client in a specialty court (e.g., mental health court, drug court, veterans court, homelessness court, juvenile therapeutic court, community court, and family therapeutic court) shall meet the following requirements:

i. The minimum requirements set forth in Section 14.A;

ii. Be familiar with mental health and substance use issues, housing, treatment alternatives, and when representing veterans, resources available for veterans.

i. **Juvenile Court Status Offense Cases** - Each lead counsel representing a client in a Child in Need of Services (CHINS), At-Risk Youth (ARY), Truancy, or other status offense case shall meet the following requirements:

i. The minimum requirements set forth in Section 14.A; and

ii. Either:

1. Have represented youth in at least two similar cases under the supervision or consultation with an attorney qualified under this case type, or

2. Completed at least three hours of CLE training specific to Juvenile Status Offense Cases.

4. Civil Cases - Trial Court Cases

a. **Representing Children and Youth in Dependency Cases** - Attorneys representing children and youth in dependency matters should be familiar with expert services and treatment resources available in dependency cases. Each lead counsel representing children and youth in a dependency matter shall meet the following requirements:

i. Meet the minimum requirements set forth in Section 14.A and the requirements for training and experience in the *Representation of Children and Youth in Dependency Cases Practice, Caseload and Training Standards*, Washington Supreme Court Commission on Children in Foster Care, at the Request of the Legislature (Rev. Sept. 2022)²¹;

ii. 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 Civil Legal Aid resource attorney or other attorney qualified under this section; and

iii. Attorneys representing children and youth in termination of parental rights cases shall have six months' dependency experience or have significant experience in conducting complex litigation.

b. **Representing Parents in Dependency Cases** - Attorneys representing parents in dependency matters should be familiar with expert services and treatment resources available in dependency cases. Each lead counsel representing children and youth in a dependency matter shall meet the following requirements:

i. Meet the minimum requirements as outlined in Section 14.A;

ii. Be familiar with the *American Bar Association Standards of Practice for Attorneys Representing Parents in Abuse and Neglect Cases and the Family Justice Initiative Attributes*; and

iii. Attorneys representing parents in termination of parental rights cases shall have either six months' dependency experience or significant experience in handling complex litigation.

c. **Civil Commitment Cases** (RCW 71.05) - Each lead counsel representing a respondent shall meet the following requirements:

i. The minimum requirements set forth in Section 14.A;

ii. Each lead counsel in a 90- or 180-day commitment hearing shall have prepared and conducted at least five 14-day hearings;

iii. Each lead counsel shall be accompanied at counsel's first 90- or 180-day commitment hearing by a supervisor or consult with a qualified attorney before the hearing;

iv. Each lead counsel in a civil commitment trial shall have conducted at least two contested 14-day hearings as lead counsel or been co-counsel with a more experienced attorney in two 90- or 180-day contested commitment hearings.

v. Have a basic knowledge of the classification of mental disorders, as described in the most recent Diagnostic and Statistical Manual of Mental Disorders ("DSM")²² and other resources, and the ability to read and understand medical terminology related to mental disorders and treatment of persons with a mental illness, substance use disorder, co-occurring disorders, and chemical dependency. Counsel shall have ready access to the most recent DSM, as well as research resources for related medical conditions. Counsel should also have basic knowledge and understanding of common personality disorders and medical conditions that may produce similar symptoms. Counsel shall be familiar with the classes of medication prescribed to treat mental disorders and chemical dependency and the possible effect of those medications on the client's ability to interact with counsel and to participate in court proceedings. Counsel should be familiar with treatment facilities, both in-patient and out-patient, that provide serv-

ices to persons with mental illness, including the scope of those services. Counsel should be familiar with local facilities and state hospitals that may be remote from where the client lives. Counsel should be familiar with the limitations on available treatment and transportation obstacles associated with such facilities.

d. Representing Clients Acquitted by Reason of Insanity (RCW 10.77) - Each attorney representing persons who are acquitted by reason of insanity in post-commitment proceedings shall meet the following requirements:

- i. The minimum requirements set forth in Section 14.A;
- ii. Have at least three years' experience of either criminal trial experience, dependency experience, or civil commitment proceedings under RCW 71.05; and
- iii. Has a basic knowledge of the classification of mental disorders, as described in the most recent Diagnostic and Statistical Manual of Mental Disorders ("DSM") and other resources, related to the treatment of persons with a mental illness and substance use;²³ and
- iv. Each counsel representing persons in this category shall meet qualification requirements established by the Washington State Office of Public Defense for this type of representation.

e. Sex Offender Commitment Cases (RCW 71.09) - There should be two attorneys on each sex offender commitment case. The lead counsel shall meet the following requirements:

- i. The minimum requirements set forth in Section 14.A;
 - ii. At least three years' criminal trial experience;
 - iii. One year experience as a felony trial defense or criminal appeals attorney;
 - iv. One year of appellate experience or demonstrated legal writing ability;
 - v. Has been lead defense counsel in at least one felony trial;
- and
- vi. Has experience as defense counsel in cases involving each of the following:
 - 1. Mental health issues;
 - 2. Sexual offenses;
 - 3. Expert witnesses; and
 - 4. Familiarity with the Civil Rules.

vii. Other counsel working on a sex offender commitment case should meet the minimum requirements in Section 14.A 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.

f. Contempt of Court Cases (Child Support Enforcement) - Each lead counsel representing a respondent in a contempt of court case shall meet the following requirements:

- i. The minimum requirements set forth in Section 14.A;
- ii. Each lead counsel shall be accompanied by a supervisor or more experienced attorney at his or her first contempt of court hearing and at his or her first two contested contempt of court hearings and participate in at least one consultation per case for their first five non-contested hearings with a WDA resource attorney or another attorney qualified in this area of practice; and
- iii. Be familiar with the Rules of Civil Procedure.

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.~~

5. Appellate Cases

a. Adult Criminal and Juvenile Court Representation in Appellate Courts Other Than Superior Court RALJ Appeals - Each lead counsel in an appellate matter before the Court of Appeals or Supreme Court shall meet the following requirements:

i. The minimum requirements set forth in Section 14.A;

ii. Has filed six appellate briefs as counsel for a party in the Washington Supreme Court or Court of Appeals, or appellate courts of other jurisdictions, including at least five criminal, dependency (RCW 13.34), civil commitment (RCW 71.05) or sex offender commitment (RCW 71.09) cases; or participated in consultation with a qualified attorney in each case until this requirement is satisfied; and

iii. Each lead counsel representing a client on appeal in a Felony High Murder, Felony High LWOP, Felony High, or Sex Offender Commitment case shall:

1. Meet the requirements of Standard 14.C.5.a.ii; and

2. Has filed 15 appellate briefs in criminal cases as counsel for a party in the Washington Supreme Court or Court of Appeals, or appellate courts of other jurisdictions, or shall participate in consultation with a qualified attorney in each case until this requirement is satisfied.

b. Dependency Representation in Appellate Courts - Each lead counsel shall meet the following requirements:

i. The minimum requirements set forth in Section 14.A;

ii. The requirements in Standard 14.C.5.a.ii; and

iii. Be familiar with the *American Bar Association Standards of Practice for Attorneys Representing Parents in Abuse and Neglect Cases and the Family Justice Initiative Attributes.*

c. RALJ Misdemeanor Appeals and Writs to Superior Court - Each lead counsel representing a client in an appellate matter to Superior Court from a court of limited jurisdiction shall meet the following requirements:

i. The minimum requirements set forth in Section 14.A; and

ii. Either:

1. Has clerked for an appellate court judge; or

2. Has represented clients in at least three substantive testimonial motion hearings or trials; or

3. Has the assistance of a more experienced attorney in preparing and arguing the RALJ appeal.

~~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.~~

6. Legal Interns - Legal interns who appear in court shall:

a. Meet the requirements set out in Section 14.A;

b. Meet the requirements set out in APR 9;

c. Receive training and supervision pursuant to APR 9; and

d. Complete an orientation and training program for legal interns.

Standards 15-18

{RESERVED}

Standard 15: Disposition of Client Complaints

Standard:

15.A. Jurisdictions that administer public defense services shall 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.

15.B. Public defense agencies and contractors with multi-attorney private firms shall include investigation and disposition of client complaints in their supervisory services.

15.C. The complaining client should be informed as to the disposition of their complaint in a timely manner.

Standard 16: Cause for Termination of Defender Services and Removal of Attorney

Standard:

Contracts for public defense services shall include the grounds for termination of the contract by the parties. Termination of a public defense attorney's or private firm's contract unilaterally by the jurisdiction should only be for good cause. Termination for good cause shall include, but not be limited to, the failure of a contract attorney or firm to provide effective or quality representation to clients; the willful disregard of the rights and best interests of the client; and the willful disregard of these Standards and the WSBA Standards for Indigent Defense Services.

Removal by the court of an appointed attorney from representation normally should not occur over the objection of the attorney and the client.

Standard 17: Non-Discrimination

Standard:

Public defense contracts and assigned counsel policies shall include language prohibiting discrimination by the jurisdiction, contractor, contractor's attorneys, or assigned counsel on the grounds of race, ethnicity, religion, national origin, language, age, marital status, gender identity, sexual orientation, or disability. The public defense administrator and all public defense attorneys and support staff shall comply with all federal, state, and local non-discrimination requirements.

Standard 18: Guidelines for Awarding Defense Contracts**Standard:**

Recruitment for public defense contracts and assigned counsel lists should include efforts to achieve a diverse public defense workforce.

Attorneys or firms applying for contracts or placement on assigned counsel lists must demonstrate their ability to meet these Standards for Indigent Defense and the WSBA Standards for Indigent Defense Services. Their contracts must comply with Washington Rule of Professional Conduct 1.8(m).

The county or city should award contracts for public defense services and select attorneys for assigned counsel lists only after determining that the applicant has demonstrated professional qualifications consistent with both these Standards and the Supreme Court Standards for Indigent Defense. Under no circumstances should a contract be awarded on the basis of cost alone

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

Standard 19: Independence and Oversight of Public Defense Services²⁴**Standard:**

Public defense providers should not be restrained from independently advocating for the resources and reforms necessary to provide defense related services for all clients. This includes efforts to foster system improvements, efficiencies, access to justice, and equity in the legal system.

Judges and judicial staff shall not manage and oversee public defense offices, public defense contracts, or assigned counsel lists. Judges and judicial staff in superior courts and courts of limited jurisdiction shall not select public defense administrators or the attorneys who provide public defense services.

Attorneys with public defense experience insulated from judicial and political influence should manage and oversee public defense services.

The terms "manage" and "oversee" include: drafting, awarding, renewing, and terminating public defense contracts; adding attorneys or removing them from assigned counsel lists; developing case weighting policies; monitoring attorney caseload limits and case-level qualifications; monitoring quality; monitoring compliance with contracts, policies, procedures, and standards; and recommending compensation.

The agencies, organizations, and administrators responsible for managing and overseeing public defense services shall apply these Standards, the WSBA Standards for Indigent Defense Services, and the WSBA Performance Guidelines in their management and oversight duties.

Jurisdictions unable to employ attorneys with public defense experience to manage and oversee public defense services shall consult with established city, county, or state public defense offices, or engage experienced public defense providers as consultants regarding management and oversight duties.

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

| <u>PD Misdemeanor Case Category</u> | <u>Seriousness Level</u> | <u>Case Value</u> | <u>CRIMES INCLUDED WITHIN EACH SERIOUSNESS LEVEL</u> |
|-------------------------------------|--------------------------|-------------------|---|
| <u>Misdemeanor - High</u> | <u>GM</u> | <u>1.5</u> | <u>Assault 4 (RCW 9A.36.041(3))</u> |
| <u>Misdemeanor - High</u> | <u>GM</u> | <u>1.5</u> | <u>Attempt, Solicitation, or Conspiracy of a Class C Felony ((RCW 9A.28.020-040))</u> |
| <u>Misdemeanor - High</u> | <u>GM</u> | <u>1.5</u> | <u>Communication with a Minor for Immoral Purposes (RCW 9.68A.090)</u> |
| <u>Misdemeanor - High</u> | <u>GM</u> | <u>1.5</u> | <u>Driving While Under the Influence (RCW 46.61.502(6))</u> |
| <u>Misdemeanor - High</u> | <u>GM</u> | <u>1.5</u> | <u>H&R Attended (RCW 46.52.020)</u> |
| <u>Misdemeanor - High</u> | <u>GM</u> | <u>1.5</u> | <u>Harassment (RCW 9A.46.020(1-2))</u> |
| <u>Misdemeanor - High</u> | <u>GM</u> | <u>1.5</u> | <u>Indecent Exposure to Person Under Age 14 (first offense) (RCW 9A.88.010)</u> |
| <u>Misdemeanor - High</u> | <u>GM</u> | <u>1.5</u> | <u>Physical Control of a Vehicle While Under the Influence (RCW 46.61.504(6))</u> |
| <u>Misdemeanor - High</u> | <u>GM</u> | <u>1.5</u> | <u>Possession of a Controlled Substance (RCW 69.50.4013)</u> |
| <u>Misdemeanor - High</u> | <u>GM</u> | <u>1.5</u> | <u>Reckless Driving RCW 46.61.150</u> |
| <u>Misdemeanor - High</u> | <u>GM</u> | <u>1.5</u> | <u>Sexual Misconduct with a Minor 2 (RCW 9A.44.096)</u> |
| <u>Misdemeanor - High</u> | <u>GM</u> | <u>1.5</u> | <u>Stalking (RCW 9A.46.110 (1-5))</u> |
| <u>Misdemeanor - High</u> | <u>GM</u> | <u>1.5</u> | <u>Telephone Harassment (subsequent conviction or threat of death) (RCW 9.61.230(1))</u> |
| <u>Misdemeanor - High</u> | <u>GM</u> | <u>1.5</u> | <u>Unlawful carrying or handling of a firearm (RCW 9.41.270)</u> |
| <u>Misdemeanor - High</u> | <u>GM</u> | <u>1.5</u> | <u>Vehicle Prowling 2 (first or second offense) (RCW 9A.52.100 (1-2))</u> |
| <u>Misdemeanor - High</u> | <u>GM</u> | <u>1.5</u> | <u>Violation of Anti-Harassment Protection Order (RCW 7.105.450)</u> |
| <u>Misdemeanor - High</u> | <u>GM/M</u> | <u>1.5</u> | <u>Domestic Violence Offense listed in RCW 10.99.020(4) or RCW 9.41.040 (2)(a)(i)(B-D)</u> |
| | <u>GM/M</u> | <u>1.5</u> | <u>Municipal Crimes shall be the same case category as the equivalent State crime. When there is no State crime, a Municipal Gross Misdemeanor is Misdemeanor - High and a Simple Misdemeanor is a Misdemeanor - Felony - Low</u> |
| <u>Misdemeanor - Low</u> | <u>M</u> | <u>1</u> | <u>Attempt, Solicitation, or Conspiracy to Commit a Gross Misdemeanor (RCW 9A.28.020-040)</u> |
| <u>Misdemeanor - High</u> | <u>M</u> | <u>1</u> | <u>Minor Driving After Alcohol (RCW 46.61.503)</u> |
| <u>Misdemeanor - High</u> | <u>M</u> | <u>1</u> | <u>Negligent Driving 1 RCW 46.61.5249</u> |

All unlisted felonies are Felony Low

| <u>PD Felony Case Category</u> | <u>Seriousness Level</u> | <u>Case Value</u> | <u>CRIMES INCLUDED WITHIN EACH SERIOUSNESS LEVEL</u> |
|--------------------------------|--------------------------|-------------------|---|
| <u>Felony - Low</u> | <u>1</u> | <u>1</u> | <u>Attempting to Elude a Pursuing Police Vehicle (RCW 46.61.024)</u> |
| <u>Felony - Low</u> | <u>1</u> | <u>1</u> | <u>False Verification for Welfare (RCW 74.08.055)</u> |
| <u>Felony - Low</u> | <u>1</u> | <u>1</u> | <u>Forgery (RCW 9A.60.020)</u> |
| <u>Felony - Low</u> | <u>1</u> | <u>1</u> | <u>Fraudulent Creation or Revocation of a Mental Health Advance Directive (RCW 9A.60.060)</u> |
| <u>Felony - Low</u> | <u>1</u> | <u>1</u> | <u>Malicious Mischief 2 (RCW 9A.48.080)</u> |
| <u>Felony - Low</u> | <u>1</u> | <u>1</u> | <u>Mineral Trespass (RCW 78.44.330)</u> |
| <u>Felony - Low</u> | <u>1</u> | <u>1</u> | <u>Possession of Stolen Property 2 (RCW 9A.56.160)</u> |
| <u>Felony - Low</u> | <u>1</u> | <u>1</u> | <u>Reckless Burning 1 (RCW 9A.48.040)</u> |
| <u>Felony - Low</u> | <u>1</u> | <u>1</u> | <u>Spotlighting Big Game 1 (RCW 77.15.450 (3)(b))</u> |
| <u>Felony - Low</u> | <u>1</u> | <u>1</u> | <u>Suspension of Department Privileges 1 (RCW 77.15.670 (3)(b))</u> |
| <u>Felony - Low</u> | <u>1</u> | <u>1</u> | <u>Taking Motor Vehicle Without Permission 2 (RCW 9A.56.075)</u> |
| <u>Felony - Low</u> | <u>1</u> | <u>1</u> | <u>Theft 2 (RCW 9A.56.040)</u> |
| <u>Felony - Low</u> | <u>1</u> | <u>1</u> | <u>Theft from a Vulnerable Adult 2 (RCW 9A.56.400(2))</u> |

| PD Felony Case Category | Seriousness Level | Case Value | CRIMES INCLUDED WITHIN EACH SERIOUSNESS LEVEL |
|-------------------------|-------------------|------------|---|
| <u>Felony - Low</u> | <u>1</u> | <u>1</u> | <u>Theft of Rental, Leased, Lease-purchased, or Loaned Property (valued at \$750 or more but less than \$5,000) (RCW 9A.56.096 (5)(b))</u> |
| <u>Felony - Low</u> | <u>1</u> | <u>1</u> | <u>Transaction of insurance business beyond the scope of licensure (RCW 48.17.063)</u> |
| <u>Felony - Low</u> | <u>1</u> | <u>1</u> | <u>Unlawful Fish and Shellfish Catch Accounting (RCW 77.15.630 (3)(b))</u> |
| <u>Felony - Low</u> | <u>1</u> | <u>1</u> | <u>Unlawful Issuance of Checks or Drafts (RCW 9A.56.060)</u> |
| <u>Felony - Low</u> | <u>1</u> | <u>1</u> | <u>Unlawful Possession of a Personal Identification Device (RCW 9A.56.320)</u> |
| <u>Felony - Low</u> | <u>1</u> | <u>1</u> | <u>Unlawful Possession of Fictitious Identification (RCW 9A.56.320)</u> |
| <u>Felony - Low</u> | <u>1</u> | <u>1</u> | <u>Unlawful Possession of Instruments of Financial Fraud (RCW 9A.56.320)</u> |
| <u>Felony - Low</u> | <u>1</u> | <u>1</u> | <u>Unlawful Possession of Payment Instruments (RCW 9A.56.320)</u> |
| <u>Felony - Low</u> | <u>1</u> | <u>1</u> | <u>Unlawful Production of Payment Instruments (RCW 9A.56.320)</u> |
| <u>Felony - Low</u> | <u>1</u> | <u>1</u> | <u>Unlawful Releasing, Planting, Possessing, or Placing Deleterious Exotic Wildlife (RCW 77.15.250 (2)(b))</u> |
| <u>Felony - Low</u> | <u>1</u> | <u>1</u> | <u>Unlawful Trafficking in Food Stamps (RCW 9.91.142)</u> |
| <u>Felony - Low</u> | <u>1</u> | <u>1</u> | <u>Unlawful Use of Food Stamps (RCW 9.91.144)</u> |
| <u>Felony - Low</u> | <u>1</u> | <u>1</u> | <u>Unlawful Use of Net to Take Fish 1 (RCW 77.15.580 (3)(b))</u> |
| <u>Felony - Low</u> | <u>1</u> | <u>1</u> | <u>Vehicle Prowl 1 (RCW 9A.52.095)</u> |
| <u>Felony - Low</u> | <u>1</u> | <u>1</u> | <u>Violating Commercial Fishing Area or Time 1 (RCW 77.15.550 (3)(b))</u> |
| <u>Felony - Low</u> | <u>2</u> | <u>1</u> | <u>Commercial Fishing Without a License 1 (RCW 77.15.500 (3)(b))</u> |
| <u>Felony - Low</u> | <u>2</u> | <u>1</u> | <u>Computer Trespass 1 (RCW 9A.90.040)</u> |
| <u>Felony - Low</u> | <u>2</u> | <u>1</u> | <u>Counterfeiting (RCW 9.16.035(3))</u> |
| <u>Felony - Low</u> | <u>2</u> | <u>1</u> | <u>Electronic Data Service Interference (RCW 9A.90.060)</u> |
| <u>Felony - Low</u> | <u>2</u> | <u>1</u> | <u>Electronic Data Tampering 1 (RCW 9A.90.080)</u> |
| <u>Felony - Low</u> | <u>2</u> | <u>1</u> | <u>Electronic Data Theft (RCW 9A.90.100)</u> |
| <u>Felony - Low</u> | <u>2</u> | <u>1</u> | <u>Engaging in Fish Dealing Activity Unlicensed 1 (RCW 77.15.620(3))</u> |
| <u>Felony - Low</u> | <u>2</u> | <u>1</u> | <u>Escape from Community Custody (RCW 72.09.310)</u> |
| <u>Felony - Low</u> | <u>2</u> | <u>1</u> | <u>Failure to Register as a Sex Offender (first, second, or subsequent offense) (RCW 9A.44.130 prior to June 10, 2010, and RCW 9A.44.132)</u> |
| <u>Felony - Low</u> | <u>2</u> | <u>1</u> | <u>Failure to Register as a Sex Offender (second or subsequent offense) (RCW 9A.44.130 prior to June 10, 2010, and RCW 9A.44.132)</u> |
| <u>Felony - Low</u> | <u>2</u> | <u>1</u> | <u>Health Care False Claims (RCW 48.80.030)</u> |
| <u>Felony - Low</u> | <u>2</u> | <u>1</u> | <u>Identity Theft 2 (RCW 9.35.020(3))</u> |
| <u>Felony - Low</u> | <u>2</u> | <u>1</u> | <u>Improperly Obtaining Financial Information (RCW 9.35.010)</u> |
| <u>Felony - Low</u> | <u>2</u> | <u>1</u> | <u>Malicious Mischief 1 (RCW 9A.48.070)</u> |
| <u>Felony - Low</u> | <u>2</u> | <u>1</u> | <u>Organized Retail Theft 2 (RCW 9A.56.350(3))</u> |
| <u>Felony - Low</u> | <u>2</u> | <u>1</u> | <u>Possession of a Stolen Vehicle (RCW 9A.56.068)</u> |
| <u>Felony - Low</u> | <u>2</u> | <u>1</u> | <u>Possession of Stolen Property 1 (RCW 9A.56.150)</u> |
| <u>Felony - Low</u> | <u>2</u> | <u>1</u> | <u>Retail Theft with Special Circumstances 2 (RCW 9A.56.360(3))</u> |
| <u>Felony - Low</u> | <u>2</u> | <u>1</u> | <u>Scrap Processing, Recycling, or Supplying Without a License (second or subsequent offense) (RCW 19.290.100)</u> |
| <u>Felony - Low</u> | <u>2</u> | <u>1</u> | <u>Theft 1 (RCW 9A.56.030)</u> |
| <u>Felony - Low</u> | <u>2</u> | <u>1</u> | <u>Theft of a Motor Vehicle (RCW 9A.56.065)</u> |
| <u>Felony - Low</u> | <u>2</u> | <u>1</u> | <u>Theft of Rental, Leased, Lease-purchased, or Loaned Property (valued at \$5,000 or more) (RCW 9A.56.096 (5)(a))</u> |
| <u>Felony - Low</u> | <u>2</u> | <u>1</u> | <u>Theft with the Intent to Resell 2 (RCW 9A.56.340(3))</u> |
| <u>Felony - Low</u> | <u>2</u> | <u>1</u> | <u>Trafficking in Insurance Claims (RCW 48.30A.015)</u> |

| PD Felony Case Category | Seriousness Level | Case Value | CRIMES INCLUDED WITHIN EACH SERIOUSNESS LEVEL |
|-------------------------|-------------------|------------|--|
| <u>Felony - Low</u> | <u>2</u> | <u>1</u> | <u>Unlawful factoring of a credit card or payment card transaction (RCW 9A.56.290 (4)(a))</u> |
| <u>Felony - Low</u> | <u>2</u> | <u>1</u> | <u>Unlawful Participation of Non-Indians in Indian Fishery (RCW 77.15.570(2))</u> |
| <u>Felony - Low</u> | <u>2</u> | <u>1</u> | <u>Unlawful Practice of Law (RCW 2.48.180)</u> |
| <u>Felony - Low</u> | <u>2</u> | <u>1</u> | <u>Unlawful Purchase or Use of a License (RCW 77.15.650 (3)(b))</u> |
| <u>Felony - Low</u> | <u>2</u> | <u>1</u> | <u>Unlawful Trafficking in Fish, Shellfish, or Wildlife 2 (RCW 77.15.260 (3)(a))</u> |
| <u>Felony - Low</u> | <u>2</u> | <u>1</u> | <u>Unlicensed Practice of a Profession or Business (RCW 18.130.190(7))</u> |
| <u>Felony - Low</u> | <u>3</u> | <u>1</u> | <u>Animal Cruelty 1 (Sexual Conduct or Contact) (RCW 16.52.205(3))</u> |
| <u>Felony - Low</u> | <u>3</u> | <u>1</u> | <u>Assault 3 (Except Assault 3 of a Peace Officer With a Projectile Stun Gun) (RCW 9A.36.031 except subsection (1)(h))</u> |
| <u>Felony - Low</u> | <u>3</u> | <u>1</u> | <u>Assault of a Child 3 (RCW 9A.36.140)</u> |
| <u>Felony - Low</u> | <u>3</u> | <u>1</u> | <u>Bail Jumping with class B or C (RCW 9A.76.170 (3)(c))</u> |
| <u>Felony - Low</u> | <u>3</u> | <u>1</u> | <u>Burglary 2 (RCW 9A.52.030)</u> |
| <u>Felony - Low</u> | <u>3</u> | <u>1</u> | <u>Communication with a Minor for Immoral Purposes (RCW 9.68A.090)</u> |
| <u>Felony - Low</u> | <u>3</u> | <u>1</u> | <u>Criminal Gang Intimidation (RCW 9A.46.120)</u> |
| <u>Felony - Low</u> | <u>3</u> | <u>1</u> | <u>Custodial Assault (RCW 9A.36.100)</u> |
| <u>Felony - Low</u> | <u>3</u> | <u>1</u> | <u>Cyber Harassment (RCW 9A.90.120 (2)(b))</u> |
| <u>Felony - Low</u> | <u>3</u> | <u>1</u> | <u>Escape 2 (RCW 9A.76.120)</u> |
| <u>Felony - Low</u> | <u>3</u> | <u>1</u> | <u>Extortion 2 (RCW 9A.56.130)</u> |
| <u>Felony - Low</u> | <u>3</u> | <u>1</u> | <u>False Reporting 2 (RCW 9A.84.040 (2)(b))</u> |
| <u>Felony - Low</u> | <u>3</u> | <u>1</u> | <u>Harassment (RCW 9A.46.020)</u> |
| <u>Felony - Low</u> | <u>3</u> | <u>1</u> | <u>Hazing (RCW 28B.10.901 (2)(b))</u> |
| <u>Felony - Low</u> | <u>3</u> | <u>1</u> | <u>Intimidating a Public Servant (RCW 9A.76.180)</u> |
| <u>Felony - Low</u> | <u>3</u> | <u>1</u> | <u>Introducing Contraband 2 (RCW 9A.76.150)</u> |
| <u>Felony - Low</u> | <u>3</u> | <u>1</u> | <u>Malicious Injury to Railroad Property (RCW 81.60.070)</u> |
| <u>Felony - Low</u> | <u>3</u> | <u>1</u> | <u>Manufacture of Untraceable Firearm with Intent to Sell (RCW 9.41.190)</u> |
| <u>Felony - Low</u> | <u>3</u> | <u>1</u> | <u>Manufacture or Assembly of an Undetectable Firearm or Untraceable Firearm (RCW 9.41.325)</u> |
| <u>Felony - Low</u> | <u>3</u> | <u>1</u> | <u>Mortgage Fraud (RCW 19.144.080)</u> |
| <u>Felony - Low</u> | <u>3</u> | <u>1</u> | <u>Negligently Causing Substantial Bodily Harm By Use of a Signal Preemption Device (RCW 46.37.674)</u> |
| <u>Felony - Low</u> | <u>3</u> | <u>1</u> | <u>Organized Retail Theft 1 (RCW 9A.56.350(2))</u> |
| <u>Felony - Low</u> | <u>3</u> | <u>1</u> | <u>Perjury 2 (RCW 9A.72.030)</u> |
| <u>Felony - Low</u> | <u>3</u> | <u>1</u> | <u>Possession of Incendiary Device (RCW 9.40.120)</u> |
| <u>Felony - Low</u> | <u>3</u> | <u>1</u> | <u>Possession of Machine Gun, Bump-Fire Stock, Undetectable Firearm, or Short-Barreled Shotgun or Rifle (RCW 9.41.190)</u> |
| <u>Felony - Low</u> | <u>3</u> | <u>1</u> | <u>Retail Theft with Special Circumstances 1 (RCW 9A.56.360(2))</u> |
| <u>Felony - Low</u> | <u>3</u> | <u>1</u> | <u>Securities Act violation (RCW 21.20.400)</u> |
| <u>Felony - Low</u> | <u>3</u> | <u>1</u> | <u>Tampering with a Witness (RCW 9A.72.120)</u> |
| <u>Felony - Low</u> | <u>3</u> | <u>1</u> | <u>Telephone Harassment (subsequent conviction or threat of death) (RCW 9.61.230(2))</u> |
| <u>Felony - Low</u> | <u>3</u> | <u>1</u> | <u>Theft of Livestock 2 (RCW 9A.56.083)</u> |
| <u>Felony - Low</u> | <u>3</u> | <u>1</u> | <u>Theft with the Intent to Resell 1 (RCW 9A.56.340(2))</u> |
| <u>Felony - Low</u> | <u>3</u> | <u>1</u> | <u>Trafficking in Stolen Property 2 (RCW 9A.82.055)</u> |
| <u>Felony - Low</u> | <u>3</u> | <u>1</u> | <u>Unlawful Hunting of Big Game 1 (RCW 77.15.410 (3)(b))</u> |
| <u>Felony - Low</u> | <u>3</u> | <u>1</u> | <u>Unlawful Imprisonment (RCW 9A.40.040)</u> |

| <u>PD Felony Case Category</u> | <u>Seriousness Level</u> | <u>Case Value</u> | <u>CRIMES INCLUDED WITHIN EACH SERIOUSNESS LEVEL</u> |
|--------------------------------|--------------------------|-------------------|--|
| <u>Felony - Low</u> | <u>3</u> | <u>1</u> | <u>Unlawful Misbranding of Fish or Shellfish 1 (RCW 77.140.060(3))</u> |
| <u>Felony - Low</u> | <u>3</u> | <u>1</u> | <u>Unlawful possession of firearm in the second degree (RCW 9A.040(2))</u> |
| <u>Felony - Low</u> | <u>3</u> | <u>1</u> | <u>Unlawful Taking of Endangered Fish or Wildlife 1 (RCW 77.15.120 (3)(b))</u> |
| <u>Felony - Low</u> | <u>3</u> | <u>1</u> | <u>Unlawful Trafficking in Fish, Shellfish, or Wildlife 1 (RCW 77.15.260 (3)(b))</u> |
| <u>Felony - Low</u> | <u>3</u> | <u>1</u> | <u>Unlawful Use of a Nondesigned Vessel (RCW 77.15.530(4))</u> |
| <u>Felony - Low</u> | <u>3</u> | <u>1</u> | <u>Vehicle Assault, by the operation or driving of a vehicle with disregard for the safety of others (RCW 46.61.522)</u> |
| <u>Felony - Low</u> | <u>4</u> | <u>1</u> | <u>Driving While Under the Influence (3 or more offenses) (RCW 46.61.502(6))</u> |
| <u>Felony - Low</u> | <u>4</u> | <u>1</u> | <u>Influencing Outcome of Sporting Event (RCW 9A.82.070)</u> |
| <u>Felony - Low</u> | <u>4</u> | <u>1</u> | <u>Physical Control of a Vehicle While Under the Influence (three or more offenses) (RCW 46.61.504(6))</u> |
| <u>Felony - Low</u> | <u>4</u> | <u>1</u> | <u>Theft of Livestock 1 (RCW 9A.56.080)</u> |
| <u>Felony - Low</u> | <u>4</u> | <u>1</u> | <u>Threats to Bomb (RCW 9.61.160)</u> |
| <u>Felony - Low</u> | <u>4</u> | <u>1</u> | <u>Trafficking in Stolen Property 1 (RCW 9A.82.050)</u> |
| <u>Felony - Low</u> | <u>4</u> | <u>1</u> | <u>Unlawful factoring of a credit card or payment card transaction (RCW 9A.56.290 (4)(b))</u> |
| <u>Felony - Low</u> | <u>4</u> | <u>1</u> | <u>Unlawful transaction of health coverage as a health care service contractor (RCW 48.44.016(3))</u> |
| <u>Felony - Low</u> | <u>4</u> | <u>1</u> | <u>Unlawful transaction of health coverage as a health maintenance organization (RCW 48.46.033(3))</u> |
| <u>Felony - Low</u> | <u>4</u> | <u>1</u> | <u>Unlawful transaction of insurance business (RCW 48.15.023(3))</u> |
| <u>Felony - Low</u> | <u>4</u> | <u>1</u> | <u>Unlicensed practice as an insurance professional (RCW 48.17.063(2))</u> |
| <u>Felony - Low</u> | <u>4</u> | <u>1</u> | <u>Use of Proceeds of Criminal Profiteering (RCW 9A.82.080 (1) and (2))</u> |
| <u>Felony - Low</u> | <u>4</u> | <u>1</u> | <u>Vehicle Prowling 2 (third or subsequent offense) (RCW 9A.52.100(3))</u> |
| <u>Felony - Low</u> | <u>5</u> | <u>1</u> | <u>Abandonment of Dependent Person 2 (RCW 9A.42.070)</u> |
| <u>Felony - Low</u> | <u>5</u> | <u>1</u> | <u>Advancing money or property for extortionate extension of credit (RCW 9A.82.030)</u> |
| <u>Felony - Low</u> | <u>5</u> | <u>1</u> | <u>Air bag diagnostic systems (RCW 46.37.660 (2)(c))</u> |
| <u>Felony - Low</u> | <u>5</u> | <u>1</u> | <u>Air bag replacement requirements (RCW 46.37.660 (1)(c))</u> |
| <u>Felony - Low</u> | <u>5</u> | <u>1</u> | <u>Bail Jumping with class A (RCW 9A.76.170 (3)(b))</u> |
| <u>Felony - Low</u> | <u>5</u> | <u>1</u> | <u>Extortionate Extension of Credit (RCW 9A.82.020)</u> |
| <u>Felony - Low</u> | <u>5</u> | <u>1</u> | <u>Extortionate Means to Collect Extensions of Credit (RCW 9A.82.040)</u> |
| <u>Felony - Low</u> | <u>5</u> | <u>1</u> | <u>Manufacture or import counterfeit, nonfunctional, damaged, or previously deployed air bag (RCW 46.37.650 (1)(c))</u> |
| <u>Felony - Low</u> | <u>5</u> | <u>1</u> | <u>Perjury 1 (RCW 9A.72.020)</u> |
| <u>Felony - Low</u> | <u>5</u> | <u>1</u> | <u>Possession of a Stolen Firearm (RCW 9A.56.310)</u> |
| <u>Felony - Low</u> | <u>5</u> | <u>1</u> | <u>Rendering Criminal Assistance 1 (RCW 9A.76.070)</u> |
| <u>Felony - Low</u> | <u>5</u> | <u>1</u> | <u>Sell, install, or reinstall counterfeit, nonfunctional, damaged, or previously deployed airbag (RCW 46.37.650 (2)(c))</u> |
| <u>Felony - Low</u> | <u>6</u> | <u>1</u> | <u>Bail Jumping with Murder 1 (RCW 9A.76.170 (3)(a))</u> |
| <u>Felony - Low</u> | <u>6</u> | <u>1</u> | <u>Bribery (RCW 9A.68.010)</u> |
| <u>Felony - Low</u> | <u>6</u> | <u>1</u> | <u>Intimidating a Judge (RCW 9A.72.160)</u> |
| <u>Felony - Low</u> | <u>6</u> | <u>1</u> | <u>Intimidating a Juror/Witness (RCW 9A.72.110, 9A.72.130)</u> |
| <u>Felony - Low</u> | <u>6</u> | <u>1</u> | <u>Malicious placement of an imitation device 2 (RCW 70.74.272 (1)(b))</u> |
| <u>Felony - Low</u> | <u>6</u> | <u>1</u> | <u>Theft from a Vulnerable Adult 1 (RCW 9A.56.400(1))</u> |
| <u>Felony - Low</u> | <u>6</u> | <u>1</u> | <u>Theft of a Firearm (RCW 9A.56.300)</u> |
| <u>Felony - Low</u> | <u>6</u> | <u>1</u> | <u>Unlawful Storage of Ammonia (RCW 69.55.020)</u> |

| <u>PD Felony Case Category</u> | <u>Seriousness Level</u> | <u>Case Value</u> | <u>CRIMES INCLUDED WITHIN EACH SERIOUSNESS LEVEL</u> |
|--------------------------------|--------------------------|-------------------|---|
| <u>Felony - Low</u> | <u>7</u> | <u>1</u> | <u>Air bag diagnostic systems (causing bodily injury or death) (RCW 46.37.660 (2)(b))</u> |
| <u>Felony - Low</u> | <u>7</u> | <u>1</u> | <u>Air bag replacement requirements (causing bodily injury or death) (RCW 46.37.660 (1)(b))</u> |
| <u>Felony - Low</u> | <u>7</u> | <u>1</u> | <u>Civil Disorder Training (RCW 9A.48.120)</u> |
| <u>Felony - Low</u> | <u>7</u> | <u>1</u> | <u>False Reporting 1 (RCW 9A.84.040 (2)(a))</u> |
| <u>Felony - Low</u> | <u>7</u> | <u>1</u> | <u>Malicious placement of an explosive 3 (RCW 70.74.270(3))</u> |
| <u>Felony - Low</u> | <u>7</u> | <u>1</u> | <u>Manufacture or import counterfeit, nonfunctional, damaged, or previously deployed air bag (causing bodily injury or death) (RCW 46.37.650 (1)(b))</u> |
| <u>Felony - Low</u> | <u>7</u> | <u>1</u> | <u>Sell, install, or reinstall counterfeit, nonfunctional, damaged, or previously deployed airbag (RCW 46.37.650 (2)(b))</u> |
| <u>Felony - Low</u> | <u>7</u> | <u>1</u> | <u>Sending, bringing into state depictions of minor engaged in sexually explicit conduct 1 (RCW 9.68A.060(1))</u> |
| <u>Felony - Low</u> | <u>7</u> | <u>1</u> | <u>Unlawful Possession of a Firearm in the first degree (RCW 9.41.040(1))</u> |
| <u>Felony - Low</u> | <u>7</u> | <u>1</u> | <u>Use of a Machine Gun or Bump-fire Stock in Commission of a (RCW 9.41.225)</u> |
| <u>Felony - Low</u> | <u>8</u> | <u>1</u> | <u>Theft of Ammonia (RCW 69.55.010)</u> |
| <u>Felony - Low</u> | | <u>1</u> | <u>Attempt, Solicitation, or Conspiracy of a Class B Felony (RCW 9A.28.020-040)</u> |
| <u>Felony - Mid</u> | <u>4</u> | <u>1.5</u> | <u>Arson 2 (RCW 9A.48.030)</u> |
| <u>Felony - Mid</u> | <u>4</u> | <u>1.5</u> | <u>Assault 2 (RCW 9A.36.021)</u> |
| <u>Felony - Mid</u> | <u>4</u> | <u>1.5</u> | <u>Assault 3 (of a Peace Officer with a Projectile Stun Gun) (RCW 9A.36.031 (1)(h))</u> |
| <u>Felony - Mid</u> | <u>4</u> | <u>1.5</u> | <u>Assault 4 (third domestic violence offense) (RCW 9A.36.041(3))</u> |
| <u>Felony - Mid</u> | <u>4</u> | <u>1.5</u> | <u>Assault by Watercraft (RCW 79A.60.060)</u> |
| <u>Felony - Mid</u> | <u>4</u> | <u>1.5</u> | <u>Bribing a Witness/Bribe Received by Witness (RCW 9A.72.090, 9A.72.100)</u> |
| <u>Felony - Mid</u> | <u>4</u> | <u>1.5</u> | <u>Cheating 1 (RCW 9.46.1961)</u> |
| <u>Felony - Mid</u> | <u>4</u> | <u>1.5</u> | <u>Commercial Bribery (RCW 9A.68.060)</u> |
| <u>Felony - Mid</u> | <u>4</u> | <u>1.5</u> | <u>Counterfeiting (RCW 9.16.035(4))</u> |
| <u>Felony - Mid</u> | <u>4</u> | <u>1.5</u> | <u>Endangerment with a Controlled Substance (RCW 9A.42.100)</u> |
| <u>Felony - Mid</u> | <u>4</u> | <u>1.5</u> | <u>Escape 1 (RCW 9A.76.110)</u> |
| <u>Felony - Mid</u> | <u>4</u> | <u>1.5</u> | <u>Hate Crime (RCW 9A.36.080)</u> |
| <u>Felony - Mid</u> | <u>4</u> | <u>1.5</u> | <u>Hit and Run with Vessel—Injury Accident (RCW 79A.60.200(3))</u> |
| <u>Felony - Mid</u> | <u>4</u> | <u>1.5</u> | <u>Hit and Run—Injury (RCW 46.52.020 (4)(b))</u> |
| <u>Felony - Mid</u> | <u>4</u> | <u>1.5</u> | <u>Identity Theft 1 (RCW 9.35.020(2))</u> |
| <u>Felony - Mid</u> | <u>4</u> | <u>1.5</u> | <u>Residential Burglary (RCW 9A.52.025)</u> |
| <u>Felony - Mid</u> | <u>4</u> | <u>1.5</u> | <u>Robbery 2 (RCW 9A.56.210)</u> |
| <u>Felony - Mid</u> | <u>4</u> | <u>1.5</u> | <u>Vehicle Assault, by being under the influence of intoxicating liquor or any drug, or by the operation or driving of a vehicle in a reckless manner (RCW 46.61.522)</u> |
| <u>Felony - Mid</u> | <u>5</u> | <u>1.5</u> | <u>Domestic Violence Court Order Violation (RCW 7.105.450, 10.99.040, 10.99.050, 26.09.300, 26.26B.050, or 26.52.070)</u> |
| <u>Felony - Mid</u> | <u>5</u> | <u>1.5</u> | <u>Extortion 1 (RCW 9A.56.120)</u> |
| <u>Felony - Mid</u> | <u>5</u> | <u>1.5</u> | <u>Kidnapping 2 (RCW 9A.40.030)</u> |
| <u>Felony - Mid</u> | <u>5</u> | <u>1.5</u> | <u>Persistent prison misbehavior (RCW 9.94.070)</u> |
| <u>Felony - Mid</u> | <u>5</u> | <u>1.5</u> | <u>Stalking (RCW 9A.46.110)</u> |
| <u>Felony - Mid</u> | <u>5</u> | <u>1.5</u> | <u>Taking Motor Vehicle Without Permission 1 (RCW 9A.56.070)</u> |
| <u>Felony - Mid</u> | <u>7</u> | <u>1.5</u> | <u>Burglary 1 (RCW 9A.52.020)</u> |

| <u>PD Felony Case Category</u> | <u>Seriousness Level</u> | <u>Case Value</u> | <u>CRIMES INCLUDED WITHIN EACH SERIOUSNESS LEVEL</u> |
|--------------------------------|--------------------------|-------------------|---|
| <u>Felony - Mid</u> | <u>7</u> | <u>1.5</u> | <u>Drive-by Shooting (RCW 9A.36.045)</u> |
| <u>Felony - Mid</u> | <u>7</u> | <u>1.5</u> | <u>Introducing Contraband 1 (RCW 9A.76.140)</u> |
| <u>Felony - Mid</u> | <u>9</u> | <u>1.5</u> | <u>Explosive devices prohibited (RCW 70.74.180)</u> |
| <u>Felony - Mid</u> | <u>9</u> | <u>1.5</u> | <u>Inciting Criminal Profiteering (RCW 9A.82.060 (1)(b))</u> |
| <u>Felony - Mid</u> | <u>9</u> | <u>1.5</u> | <u>Malicious placement of an explosive 2 (RCW 70.74.270(2))</u> |
| <u>Felony - Mid</u> | <u>10</u> | <u>1.5</u> | <u>Malicious explosion 3 (RCW 70.74.280(3))</u> |
| <u>Felony - Mid</u> | <u>10</u> | <u>1.5</u> | <u>Sexually Violent Predator Escape (RCW 9A.76.115)</u> |
| <u>Felony - Mid</u> | | <u>1.5</u> | <u>Attempt, Solicitation, or Conspiracy of a Class A Felony (RCW 9A.28.020-040)</u> |
| <u>Felony - Mid</u> | <u>DG2</u> | <u>1.5</u> | <u>Felony Offense with Firearm Enhancement or Deadly Weapon Enhancement that becomes a Strike (RCW 9.94A.030 (32)(s) and 9.94A.825)</u> |
| <u>Felony - High</u> | <u>8</u> | <u>3</u> | <u>Arson 1 (RCW 9A.48.020)</u> |
| <u>Felony - High</u> | <u>9</u> | <u>3</u> | <u>Abandonment of Dependent Person 1 (RCW 9A.42.060)</u> |
| <u>Felony - High</u> | <u>9</u> | <u>3</u> | <u>Assault of a Child 2 (RCW 9A.36.130)</u> |
| <u>Felony - High</u> | <u>9</u> | <u>3</u> | <u>Robbery 1 (RCW 9A.56.200)</u> |
| <u>Felony - High</u> | <u>10</u> | <u>3</u> | <u>Criminal Mistreatment 1 (RCW 9A.42.020)</u> |
| <u>Felony - High</u> | <u>10</u> | <u>3</u> | <u>Kidnapping 1 (RCW 9A.40.020)</u> |
| <u>Felony - High</u> | <u>10</u> | <u>3</u> | <u>Leading Organized Crime (RCW 9A.82.060 (1)(a))</u> |
| <u>Felony - High</u> | <u>12</u> | <u>3</u> | <u>Assault 1 (RCW 9A.36.011)</u> |
| <u>Felony - High</u> | <u>12</u> | <u>3</u> | <u>Assault of a Child 1 (RCW 9A.36.120)</u> |
| <u>Felony - High</u> | <u>12</u> | <u>3</u> | <u>Malicious placement of an imitation device 1 (RCW 70.74.272 (1)(a))</u> |
| <u>Felony - High</u> | <u>13</u> | <u>3</u> | <u>Malicious explosion 2 (RCW 70.74.280(2))</u> |
| <u>Felony - High</u> | <u>13</u> | <u>3</u> | <u>Malicious placement of an explosive 1 (RCW 70.74.270(1))</u> |
| <u>Felony - High</u> | <u>14</u> | <u>3</u> | <u>Trafficking 1 (RCW 9A.40.100(1))</u> |
| <u>Felony - High</u> | <u>15</u> | <u>3</u> | <u>Malicious explosion 1 (RCW 70.74.280(1))</u> |
| <u>Felony - Sex</u> | <u>2</u> | <u>5</u> | <u>Voyeurism 1 (RCW 9A.44.115)</u> |
| <u>Felony - Sex</u> | <u>3</u> | <u>5</u> | <u>Promoting Prostitution 2 (RCW 9A.88.080)</u> |
| <u>Felony - Sex</u> | <u>4</u> | <u>5</u> | <u>Indecent Exposure to Person Under Age 14 (subsequent sex offense) (RCW 9A.88.010)</u> |
| <u>Felony - Sex</u> | <u>4</u> | <u>5</u> | <u>Possession of Depictions of a Minor Engaged in Sexually Explicit Conduct 2 (RCW 9.68A.070(2))</u> |
| <u>Felony - Sex</u> | <u>4</u> | <u>5</u> | <u>Viewing of Depictions of a Minor Engaged in Sexually Explicit Conduct 1 (RCW 9.68A.075(1))</u> |
| <u>Felony - Sex</u> | <u>5</u> | <u>5</u> | <u>Child Molestation 3 (RCW 9A.44.089)</u> |
| <u>Felony - Sex</u> | <u>5</u> | <u>5</u> | <u>Criminal Mistreatment 2 (RCW 9A.42.030)</u> |
| <u>Felony - Sex</u> | <u>5</u> | <u>5</u> | <u>Custodial Sexual Misconduct 2 (RCW 9A.44.170)</u> |
| <u>Felony - Sex</u> | <u>5</u> | <u>5</u> | <u>Dealing in Depictions of Minor Engaged in Sexually Explicit Conduct 2 (RCW 9.68A.050(2))</u> |
| <u>Felony - Sex</u> | <u>5</u> | <u>5</u> | <u>Incest 2 (RCW 9A.64.020(2))</u> |
| <u>Felony - Sex</u> | <u>5</u> | <u>5</u> | <u>Rape 3 (RCW 9A.44.060)</u> |
| <u>Felony - Sex</u> | <u>5</u> | <u>5</u> | <u>Sending, Bringing into State Depictions of Minor Engaged in Sexually Explicit Conduct 2 (RCW 9.68A.060(2))</u> |
| <u>Felony - Sex</u> | <u>5</u> | <u>5</u> | <u>Sexual Misconduct with a Minor 1 (RCW 9A.44.093)</u> |
| <u>Felony - Sex</u> | <u>5</u> | <u>5</u> | <u>Sexually Violating Human Remains (RCW 9A.44.105)</u> |
| <u>Felony - Sex</u> | <u>6</u> | <u>5</u> | <u>Incest 1 (RCW 9A.64.020(1))</u> |
| <u>Felony - Sex</u> | <u>6</u> | <u>5</u> | <u>Possession of Depictions of a Minor Engaged in Sexually Explicit Conduct 1 (RCW 9.68A.070(1))</u> |

| <u>PD Felony Case Category</u> | <u>Seriousness Level</u> | <u>Case Value</u> | <u>CRIMES INCLUDED WITHIN EACH SERIOUSNESS LEVEL</u> |
|--------------------------------|--------------------------|-------------------|---|
| <u>Felony - Sex</u> | <u>6</u> | <u>5</u> | <u>Rape of a Child 3 (RCW 9A.44.079)</u> |
| <u>Felony - Sex</u> | <u>7</u> | <u>5</u> | <u>Child Molestation 2 (RCW 9A.44.086)</u> |
| <u>Felony - Sex</u> | <u>7</u> | <u>5</u> | <u>Custodial Sexual Misconduct 1 (RCW 9A.44.160)</u> |
| <u>Felony - Sex</u> | <u>7</u> | <u>5</u> | <u>Dealing in depictions of minor engaged in sexually explicit conduct 1 (RCW 9.68A.050(1))</u> |
| <u>Felony - Sex</u> | <u>7</u> | <u>5</u> | <u>Indecent Liberties (without forcible compulsion) (RCW 9A.44.100 (1) (b) and (c))</u> |
| <u>Felony - Sex</u> | <u>8</u> | <u>5</u> | <u>Commercial Sexual Abuse of a Minor (RCW 9.68A.100)</u> |
| <u>Felony - Sex</u> | <u>8</u> | <u>5</u> | <u>Promoting Prostitution 1 (RCW 9A.88.070)</u> |
| <u>Felony - Sex</u> | <u>9</u> | <u>5</u> | <u>Sexual Exploitation (RCW 9.68A.040)</u> |
| <u>Felony - Sex</u> | <u>10</u> | <u>5</u> | <u>Child Molestation 1 (RCW 9A.44.083)</u> |
| <u>Felony - Sex</u> | <u>10</u> | <u>5</u> | <u>Indecent Liberties (with forcible compulsion) (RCW 9A.44.100 (1)(a))</u> |
| <u>Felony - Sex</u> | <u>11</u> | <u>5</u> | <u>Rape 2 (RCW 9A.44.050)</u> |
| <u>Felony - Sex</u> | <u>11</u> | <u>5</u> | <u>Rape of a Child 2 (RCW 9A.44.076)</u> |
| <u>Felony - Sex</u> | <u>12</u> | <u>5</u> | <u>Promoting Commercial Sexual Abuse of a Minor (RCW 9.68A.101)</u> |
| <u>Felony - Sex</u> | <u>12</u> | <u>5</u> | <u>Rape 1 (RCW 9A.44.040)</u> |
| <u>Felony - Sex</u> | <u>12</u> | <u>5</u> | <u>Rape of a Child 1 (RCW 9A.44.073)</u> |
| <u>Felony - Sex</u> | <u>12</u> | <u>5</u> | <u>Trafficking 2 (RCW 9A.40.100(3))</u> |
| <u>Felony - Sex</u> | | <u>5</u> | <u>Any Felony Offense where a Special Allegation of Sexual Motivation is alleged pursuant (RCW 9.94A835)</u> |
| <u>Felony - Sex</u> | | <u>5</u> | <u>Attempt, Solicitation, or Conspiracy to Commit a Sex Offense (RCW 9A.28.020)</u> |
| <u>Felony - Murder</u> | <u>7</u> | <u>7</u> | <u>Homicide by Watercraft, by disregard for the safety of others (RCW 79A.60.050)</u> |
| <u>Felony - Murder</u> | <u>7</u> | <u>7</u> | <u>Negligently Causing Death By Use of a Signal Preemption Device (RCW 46.37.675)</u> |
| <u>Felony - Murder</u> | <u>7</u> | <u>7</u> | <u>Vehicular Homicide, by disregard for the safety of others (RCW 46.61.520)</u> |
| <u>Felony - Murder</u> | <u>8</u> | <u>7</u> | <u>Homicide by Watercraft, by the operation of any vessel in a reckless manner (RCW 79A.60.050)</u> |
| <u>Felony - Murder</u> | <u>8</u> | <u>7</u> | <u>Manslaughter 2 (RCW 9A.32.070)</u> |
| <u>Felony - Murder</u> | <u>9</u> | <u>7</u> | <u>Hit and Run—Death (RCW 46.52.020 (4)(a))</u> |
| <u>Felony - Murder</u> | <u>9</u> | <u>7</u> | <u>Homicide by Watercraft, by being under the influence of intoxicating liquor or any drug (RCW 79A.60.050)</u> |
| <u>Felony - Murder</u> | <u>11</u> | <u>7</u> | <u>Manslaughter 1 (RCW 9A.32.060)</u> |
| <u>Felony - Murder</u> | <u>11</u> | <u>7</u> | <u>Vehicular Homicide, by being under the influence of intoxicating liquor or any drug (RCW 46.61.520)</u> |
| <u>Felony - Murder</u> | <u>11</u> | <u>7</u> | <u>Vehicular Homicide, by the operation of any vehicle in a reckless manner (RCW 46.61.520)</u> |
| <u>Felony - Murder</u> | <u>14</u> | <u>7</u> | <u>Murder 2 (RCW 9A.32.050)</u> |
| <u>Felony - Murder</u> | <u>15</u> | <u>7</u> | <u>Homicide by abuse (RCW 9A.32.055)</u> |
| <u>Felony - Murder</u> | <u>15</u> | <u>7</u> | <u>Murder 1 (RCW 9A.32.030)</u> |
| <u>Felony - Murder</u> | <u>16</u> | <u>7</u> | <u>Aggravated Murder 1 (RCW 10.95.020)</u> |
| <u>Felony - Murder</u> | | <u>7</u> | <u>Attempt, Solicitation, or Conspiracy to Commit Murder (RCW 9A.28.020-040)</u> |
| <u>Felony - LWOP</u> | | <u>8</u> | <u>Any "Third Strike" or final offense where a life sentence could be imposed (RCW 9.94A575)</u> |

¹ - "Counsel should not be paid on a flat fee basis, as such payment structures reward counsel for doing as little work as possible." ABA Ten Principles of a Public Defense Delivery System, Principle 2: Funding, Structure, and Oversight, n. 6 (August 2023) (citing *Wilbur v. Mt. Vernon*, No. C11-1100RSL, U.S.D.C. D. Wash., at 15 (Dec. 4, 2013) (district court finding that a flat fee contract "left the defenders compensated at such a paltry level that even a brief meeting at the outset of the representation would likely make the venture unprofitable."))

2 The American Bar Association's Ethics Opinion 06-441 states in part:
 3 If workload prevents a lawyer from providing competent and diligent representation to existing clients, she must not accept new clients. If the
 4 clients are being assigned through a court appointment system, the lawyer should request that the court not make any new appointments. Once
 5 the lawyer is representing a client, the lawyer must move to withdraw from representation if she cannot provide competent and diligent
 6 representation.
 7 Available at https://www.americanbar.org/content/dam/aba/events/legal_aid_indigent_defendants/lsc-laid-ethics-opinion-06-441.pdf.
 8 See, ABA Eight Guidelines of Public Defense Related to Excessive Workloads, Guidelines 1, 4, 5, 6, 7, 8 (August 2009).
 9 RCW 10.101.050.
 10 See Nicholas M. Pace, Malia N. Brink, Cynthia G. Lee, Stephen F. Hanlon, *National Public Defense Workload Study*, p. 99 (2023) (hereinafter
 11 NPDWS). In addition, the Washington Defender Association *Indigent Defense Standards* (1989) states: "An accepted standard for attorneys is
 12 to work 1650 billable hours per year." https://defensenet.org/wp-content/uploads/2017/12/Final-2007-WDA-Standards-with-Commentary_18.12.06.pdf. Similarly, a study for the Massachusetts Committee for Public Counsel Services determined that an appropriate
 13 number of hours to spend directly representing clients per year is 1,662 hours, after deducting holidays, vacation time, training, and non-case
 14 duties. Center for Court Innovation, *The Committee for Public Counsel Services Answering Gideon's Call Project (2012-DB-BX-0010)*
 15 *Attorney Workload Assessment* 12 (Oct. 2014), available at <https://www.publiccounsel.net/cfo/wp-content/uploads/sites/8/2014/12/Attorney-Workload-Assessment.pdf>.
 16 NPDWS, at 85.
 17 Felony-High LWOP does not apply to Juvenile Court Offender cases.
 18 The standards under this subsection are under review. To provide guidance in the interim, the prior standards are included only until revisions
 19 are approved.
 20 Support staff necessary for effective representation "includes one supervisor for every ten attorneys; one investigator for every three attorneys;
 21 one social service caseworker for every three attorneys; one paralegal for every four felony attorneys; and one secretary for every four felony
 22 attorneys." Bureau of Justice Assistance, United States Department of Justice's *Keeping Defender Workloads Manageable*, 10 (2001), available
 23 at <https://www.ncjrs.gov/pdffiles1/bja/185632.pdf>. See also, National Association for Public Defense Policy Statement on Public Defense
 24 Staffing (May 2020), available at <https://publicdefenders.us/resources/policy-statement-on-statement-on-public-defense-staffing/>.
 See, RPC 1.4 "Communication."
 National Association of Public Defense Policy Statement on Public Defense Staffing (May 2020): "Until empirical studies are further able to
 determine the number of staff necessary to support the lawyer, public defense systems, at a minimum, should provide, one investigator for
 every three lawyers, one mental health professional, often a social worker, for every three lawyers, and one supervisor for every 10 litigators.
 Additionally, there should be one paralegal and one administrative assistant for every 4 lawyers."
 See, WSBA Guide to Best Practices for Client File Retention and Management at: [https://www.wsba.org/docs/default-source/resources-services/practice-management-\(lomap\)/guide-to-best-practices-for-client-file-retention-and-management.pdf?sfvrsn=306a3df1_10](https://www.wsba.org/docs/default-source/resources-services/practice-management-(lomap)/guide-to-best-practices-for-client-file-retention-and-management.pdf?sfvrsn=306a3df1_10).
 Attorneys should keep records of cases in which the attorney served as co-counsel, trials, and attendance at trial academies.
 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.
 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 will be 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.
 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."
 Listed in RCW 9.41.040 (2)(a)(i)(B-D) or RCW 10.99.020(4).
 Includes a violation of RCW 9.68A.090 (Communicating with a Child for Immoral Purposes), 9A.44.063 (Sexual Misconduct with a Minor in
 the Second Degree), or an attempt, solicitation, or conspiracy to commit a Class C felony that requires sex offender registration upon
 conviction pursuant to RCW 9A.44.140.
 Listed in RCW 9.41.040 (2)(a)(i)(B-D) or RCW 10.99.020(4).
 Includes a violation of RCW 9.68A.090 (Communicating with a Child for Immoral Purposes), 9A.44.063 (Sexual Misconduct with a Minor in
 the Second Degree), or an attempt, solicitation, or conspiracy to commit a Class C felony that requires sex offender registration upon
 conviction pursuant to RCW 9A.44.140.
 Available at: <https://www.courts.wa.gov/subsite/CommFC/docs/revised%20practice%20standards%20for%20representation%20of%20children%20and%20youth%20in%20dependency%20cases.pdf>.
 Counsel shall be familiar with the diagnostic manual in use by mental health professionals at the time of sentencing and the time of any
 hearing.
 Counsel shall be familiar with the diagnostic manual in use by mental health professionals.
 See Principle 1 of the ABA Ten Principles of a Public Defense Delivery System and Commentary (August 2023), including the
 recommendation a nonpartisan commission or advisory board oversee the public defense function, thus safeguarding against undue political
 pressure while also promoting efficiency and accountability for a publicly funded service.

Reviser's note: The typographical errors in the above material occurred in the copy filed by the state supreme court and appear in the Register pursuant to the requirements of RCW 34.08.040.