

**CrR 3.1**  
**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 references specific “Applicable Standards.” The “Applicable Standards” are those referenced in these court rules and when relevant, the Washington State Bar Association Standards for Indigent Defense Services. The court adopts these standards beyond those required for certification to address the issues identified in *State v. A.N.J.*, 168 Wn.2d 91 (2010). The standards are applicable to individual attorneys and remain pertinent to contracts that defense attorneys negotiate and sign.<sup>1</sup> 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 (see Certification of Compliance Instructions and Form at the end of these standards).

[Adopted effective October 1, 2012; Amended effective February 1, 2021; January 1, 2026.]

**Standard 1. Compensation**

[RESERVED]

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

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

[Adopted effective January 1, 2026.]

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

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

[Adopted effective October 1, 2012.]

*Standard 3.2.* The caseload of appointed attorneys shall allow each lawyer to give each client the time and effort necessary to ensure effective representation. Defender organizations, county offices, contract attorneys, and assigned counsel shall not accept workloads that, by reason of their excessive size, interfere with the rendering of quality representation. As used in this standard, “quality representation” means the minimum level of attention, care, and skill that Washington citizens would expect of their state’s criminal justice system.

[Adopted effective October 1, 2012; Amended effective January 1, 2026.]

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

---

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

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

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

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

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

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

[Adopted effective October 1, 2012; Amended effective January 1, 2015; January 1, 2026.]

*Standard 3.4. Caseload Limits.* Effective January 1, 2026, the caseload standard for each full-time appointed felony attorney for any 12-month period shall be 47 felony case credits; and for each full-time appointed misdemeanor attorney for any 12-month period shall be 120 misdemeanor case credits; and for each full-time appointed attorney for a respondent in civil commitment proceedings for any 12-month period shall be 250 commitment case credits.<sup>2</sup>

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

Actual caseload count will depend on the numerical case weighting system that local jurisdictions may adopt, consistent with standards 3.5 and 3.6. State agencies responsible for administering family defense representation may also adopt case weighting standards. Case

---

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

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

weighting models should consider the Washington State Bar Association (WSBA) Standards for Indigent Defense Services for case weighting.

The caseload of a full-time appointed attorney shall not exceed 30 appeals to an appellate court hearing a case on the record and briefs per attorney per year. The caseload standard shall be reduced to 25 beginning January 1, 2027. (The standard assumes experienced appellate attorneys handling cases with records of an average length. If attorneys do not have significant appellate experience and/or the record is greater than average, the caseload should be accordingly reduced.)

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

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

Resolutions of cases by pleas of guilty to criminal charges on a first appearance or arraignment docket are presumed to be rare occurrences requiring careful evaluation of the evidence and the law, as well as thorough communication with clients, and may 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.

[Adopted effective October 1, 2013, except paragraph 3, regarding misdemeanor caseload limits, effective January 1, 2015; Amended effective January 1, 2015; January 1, 2026.]

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

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

B. be consistent with these 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 that are complex, serious, or contribute more significantly to attorney workload than average cases should be weighted upward. In addition, a case weighting system should consider factors that might justify a case weight of less than one case.

[Adopted effective October 1, 2012; Amended effective January 1, 2015; January 1, 2026.]

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

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

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

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

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

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

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

[Adopted effective October 1, 2012; Amended effective January 1, 2015.]

### **Related Standards**

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

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

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

ABA Comm. on Ethics & Prof'l Responsibility, Formal Op. 06-441 (2006) (*Ethical Obligations of Lawyers Who Represent Indigent Criminal Defendants When Excessive Caseloads Interfere With Competent and Diligent Representation*)  
Am. Council of Chief Defenders, *Statement on Caseloads and Workloads* (Aug. 24, 2007)  
ABA House of Delegates, *Eight Guidelines of Public Defense Related to Excessive Caseloads* (Aug. 2009)  
TASK FORCE ON COURTS, NAT'L ADVISORY COMM'N ON CRIMINAL STANDARDS & GOALS, COURTS std. 13.12 (1973)  
MODEL CODE OF PROF'L RESPONSIBILITY DR 6-101.  
ABA House of Delegates, *The Ten Principles of a Public Defense Delivery System* (Feb. 2002)  
ABA House of Delegates, *Standards of Practice for Lawyers Who Represent Children in Abuse and Neglect Cases* (Feb. 1996)  
Nat'l Legal Aid & Defender Ass'n, Am. Council of Chief Defenders, Ethical Opinion 03-01 (2003).  
Nat'l Legal Aid & Defender Ass'n, *Standards for Defender Services* std. IV-1 (1976)  
Nat'l Legal Aid & Defender Ass'n, *Model Contract for Public Defense Services* (2000)  
Nat'l Ass'n of Counsel for Children, *NACC Recommendations for Representation of Children in Abuse and Neglect Cases* (2001)  
Seattle Ordinance 121501 (June 14, 2004)  
Indigent Defense Servs. Task Force, Seattle-King County Bar Ass'n, *Guidelines for Accreditation of Defender Agencies* Guideline 1 (1982)  
Wash. State Office of Pub. Defense, *Parents Representation Program Standards of Representation* (2009)  
BUREAU OF JUDICIAL ASSISTANCE, U.S. DEP'T OF JUSTICE, INDIGENT DEFENSE SERIES NO. 4, KEEPING DEFENDER WORKLOADS MANAGEABLE (2001) (NCJ 185632)

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

[RESERVED]

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

*Standard 5.1.* [Reserved.]

*Standard 5.2.*

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

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

[Adopted effective October 1, 2012; Amended effective January 1, 2026.]

## **Standard 6. Investigators**

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

[Adopted effective October 1, 2012.]

## **Standard 7.**

[RESERVED]

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

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

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

[Adopted effective January 1, 2026.]

## **Standards 9.-12.**

[RESERVED]

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

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

[Adopted effective October 1, 2012.]

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

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

[Adopted effective October 1, 2012; Amended effective January 1, 2026.]

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

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

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

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

[Adopted effective January 1, 2026.]

**Standard 16.**

[RESERVED]

**Standard 17. Nondiscrimination**

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

[Adopted effective January 1, 2026.]

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

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

[Adopted effective January 1, 2026.]

**CERTIFICATION OF COMPLIANCE**

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

The certification must be in substantially the following form:

**SEPARATE CERTIFICATION FORM**

<p>_____ <b>Court of Washington</b></p> <p>for _____</p>	<p><input type="checkbox"/> No.: _____</p> <p><input type="checkbox"/> Check if Administrative Filing</p> <p><input type="checkbox"/> Case file No.: _____</p>
<p><u>State of Washington</u>, Plaintiff</p> <p>vs.</p> <p>_____ Defendant</p>	<p>CERTIFICATION OF APPOINTED COUNSEL OF COMPLIANCE WITH STANDARDS REQUIRED BY CrR 3.1 / CrRLJ 3.1 / JuCR 9.2</p>

The undersigned attorney hereby certifies:

1. I \_\_\_\_\_ (print lawyer's name) am familiar with the current Standards for Indigent Defense adopted by the Supreme Court that apply to attorneys appointed to represent indigent clients.
2. I file certification forms in each court and in each case in which I am appointed to provide indigent defense representation.
3. Approximately \_\_\_\_\_ % of my total practice time is devoted to indigent defense cases. Approximately \_\_\_\_\_ % of my total practice time is devoted to indigent defense cases in this court.
4. I am appointed in other courts to provide indigent defense representation. My practice time in each of those other courts is approximately as follows: \_\_\_ Not Applicable
  - Court: \_\_\_\_\_ % of total practice: \_\_\_\_\_
  - Court: \_\_\_\_\_ % of total practice: \_\_\_\_\_
  - Court: \_\_\_\_\_ % of total practice: \_\_\_\_\_
5. Caseload: I limit the number of cases and mix of case types to the caseload limits required by Standards 3.2, 3.3, and 3.4, provided that the graduated implementation of these standards as authorized in Standard 3.4 is compliant with the standards adopted. My caseload is prorated to the percentage of my practice devoted to indigent defense.
6. Qualifications: I meet the minimum basic professional qualifications in the current Washington State Bar Association (WSBA) Standards for Indigent Defense Services. I am familiar with the specific case qualifications in the WSBA Standards for Indigent Defense Services and accept appointment as lead counsel only when I meet the qualifications for that case.
7. Office: I have access to an office that accommodates confidential meetings, receipt of mail, and adequate telephone and communication services as required by Standard 5.2.
8. Investigators: I have investigators available to me and use investigative services as appropriate, as required by Standard 6.1.

\_\_\_\_\_  
Signature, WSBA No.

\_\_\_\_\_  
Date

[Adopted effective October 1, 2012. Amended effective September 1, 2013; September 17, 2013; October 1, 2013; February 1, 2021; October 31, 2023; January 1, 2026.]