

BEFORE THE BOARD OF COUNTY COMMISSIONERS
OF SPOKANE COUNTY, WASHINGTON

IN THE MATTER OF ADOPTING A WRITTEN)
POLICY AND PROCEDURE TO IMPLEMENT A)
NUMERICAL CASE WEIGHTING SYSTEM TO)
COUNT CASES AS PROVIDED FOR IN)
“STANDARDS FOR INDIGENT DEFENSE”)
STANDARD 3 “CASELOAD LIMITS AND TYPES OF)
CASES” AND MODIFYING THE STANDARDS FOR)
THE DELIVERY OF PUBLIC DEFENDER SERVICES)
ADOPTED UNDER RESOLUTION NO. 07-0969 AND)
OTHER MATTERS RELATED THERETO)

RESOLUTION

WHEREAS, pursuant to the provisions of RCW 36.32.120(6), the Board of County Commissioners of Spokane County, Washington (sometimes hereinafter referred to as the “Board”) has the care of county property and the management of county funds and business; and

WHEREAS, pursuant to the provisions of chapter 36.26 RCW, the Board of County Commissioners of Spokane County, Washington has created a public defender district consisting of Spokane County; and

WHEREAS, pursuant to the provisions of RCW 10.101.030, each county shall adopt standards for the delivery of public defense services, where those services are provided by contract, assigned counsel, or a public defender office to include those matters outlined therein; and

WHEREAS, pursuant to the provisions of RCW 10.101.030, the Board of County Commissioners of Spokane County, Washington adopted standards for the delivery of public defense services under Spokane County Resolution No. 07-0969; and

WHEREAS, the Washington State Supreme Court has adopted STANDARDS FOR INDIGENT DEFENSE (“SID”). Standard 3 (Caseload Limits and Types of Cases) sets forth caseload limits reflecting the maximum caseload for full-time defense attorneys for cases of average complexity and effort in each case type specified. Standard 3.5 (Case Counting) provides that local governments responsible for employing, contracting with or appointing public defense attorneys should adopt and publish written policies and procedures to implement a numerical case weighting system to count cases. If such policies and procedures *are not* adopted and published, it is presumed that attorneys are not engaging in case weighting and the caseload limits set forth in Standard 3.4 (Caseload Limits) are applicable; and

WHEREAS, pursuant to the provisions of SID, Standard 3.5 (Case Counting), the Spokane County Public Defender has recommended (1) a modifications to the “STANDARDS FOR THE DELIVERY OF PUBLIC DEFENDER SERVICES” adopted under Spokane County Resolution No. 07-0969 to include a written policy and procedure to implement a numerical case weighting system to count cases, and (2) modifications to the “STANDARDS FOR THE DELIVERY OF PUBLIC DEFENDER SERVICES” adopted under Spokane County Resolution No. 07-0969 so that they are consistent with other provisions within SID, Standard 3 (Caseload Limits and Types of Cases); and

WHEREAS, after considering the written policy and procedure recommended by the Spokane County Public Defender to implement a numerical case weighting system to count cases as provided for in SID Standard 3.5(Case Counting) as well as the recommendations by the Spokane County Public Defender to the “STANDARDS FOR THE DELIVERY OF PUBLIC DEFENDER SERVICES” adopted under Spokane County Resolution No. 07-0969 so that they are consistent with other provisions within SID, Standard 3 (Caseload Limits

and Types of Cases), the Board desires to adopt the same recognizing that SID Standard 3.5(Case Counting) provides that the case weighting system to count cases should be periodically reviewed and updated to reflect current workloads.

NOW, THEREFORE, BE IT RESOLVED by the Board of County Commissioners of Spokane County, Washington, pursuant to the provisions of the Washington State Supreme Court STANDARDS FOR INDIGENT DEFENSE (“SID”), Standard 3.5 (Case Counting), that the Board does hereby:

- (1) Adopt the written policy and procedure as recommended by the Spokane County Public Defender to implement a numerical case weighting system to count cases as provided for in SID Standard 3.5(Case Counting) as well as the recommendations by the Spokane County Public Defender to the “STANDARDS FOR THE DELIVERY OF PUBLIC DEFENDER SERVICES” adopted under Spokane County Resolution No. 07-0969 so that they are consistent with other provisions within SID, Standard 3 (Caseload Limits and Types of Cases), a copy of which is attached hereto as Attachment “A” and incorporated herein by reference,
- (2) Request that the Clerk of the Board publish the “STANDARDS FOR THE DELIVERY OF PUBLIC DEFENDER SERVICES” adopted under Spokane County Resolution No. 07-0969 a modified herein by having the County Information Systems Department link the “STANDARDS FOR THE DELIVERY OF PUBLIC DEFENDER SERVICES” on the County and Spokane County Public Defender’s Web sites, and
- (3) Request that the Clerk of the Board file a copy of the “STANDARDS FOR THE DELIVERY OF PUBLIC DEFENDER SERVICES” adopted under Spokane County Resolution No. 07-0969 as modified herein with the State of Washington Office of Public Defense.

In taking the above action, the Board recognizes and acknowledges that their action does not eliminate or have an effect on their obligation to collectively bargain under chapter 41.56 RCW with respect to any matters which might also fall within the perimeters of wages, hours and working conditions as those terms are defined in chapter 41.56 RCW.

BE IT FURTHER RESOLVED, by the Board of County Commissioner of Spokane County, Washington, that but for the modification to the “STANDARDS FOR THE DELIVERY OF PUBLIC DEFENDER SERVICES” adopted under Spokane County Resolution No. 07-0969 as provided for herein, all other provisions within such document shall remain in full force and effect without any change or modification whatsoever.

PASSED AND ADOPTED this 27th day of August 2013.

**BOARD OF COUNTY COMMISSIONERS
OF SPOKANE COUNTY, WASHINGTON**

SHELLY O’QUINN, Chair

ATTEST:

AL FRENCH, Vice-Chair

Daniela Erickson
Clerk of the Board

TODD MIELKE, Commissioner

(Underlined and highlighted language added, lined out and highlighted language deleted.)

ATTACHMENT "A"

STANDARDS FOR THE DELIVERY OF PUBLIC DEFENDER SERVICES

DISCLAIMER: In instances where Public Defender Attorneys as defined hereinafter have formed a bargaining unit under chapter 41.56 RCW, the Board of County Commissioners has a legal obligation to collectively bargain in good faith with regard to wages, hours and working conditions. Additionally, under RCW 10.101.030 the County shall adopt standards for the delivery of public defense services to include those items set forth therein. The County understands that its obligation to adopt standards under RCW 10.101.030 does not eliminate or have an effect on its obligation to collectively bargain under chapter 41.56 RCW with respect to any items set forth in these standards which might also fall within the perimeters of wages, hours and working conditions as those terms are used in chapter 41.56 RCW.

DEFINITIONS:

For the purpose of this Ordinance the following terms, phrases, words, and their derivations shall have the meaning given in this section:

1. **"Case"** means ~~one order appointing the Public Defender's Office to one client, resulting in one "file" opened and assigned to a specific attorney. A single appointment, and thus a single case, may contain more than one count, and more than one court file number. Probation cases are counted as three probation files equaling one case.~~ the filing of a document with the court naming a person as defendant or respondent, to which an attorney is appointed in order to provide representation. In courts of limited jurisdiction multiple citations from the same incident can be counted as one case.
2. **"Board"** means the Board of Commissioners of Spokane County.
3. **"Public Defender's Office"** means the Spokane County Public Defender Office, which is a department of Spokane County, organized pursuant to chapter 36.26 RCW.
4. **"Public Defender Attorneys"** means attorneys employed in the Public Defender's Office or attorneys employed in the separate department of Spokane County called Counsel for Defense.
5. **"Public Defender Contractors"** means attorneys who are not full-time permanent employees of the Public Defender's Office or Counsel for Defense and who have agreed to represent indigent defendants which the Public Defender Office and Counsel for Defense cannot represent.

STANDARD ONE: COMPENSATION

If Public Defender Attorneys are organized for the purpose of collective bargaining, wages will be negotiated with certified unions pursuant to chapter 41.56 RCW. Otherwise, the salary and benefits received by Public Defender Attorneys shall not be less than the salary and benefits received by Spokane County Deputy Prosecuting Attorneys in the same Class Specification.

Public Defender Contractors should be compensated commensurate with the complexity of the case assigned and time required for the case. There should be provision for extraordinary compensation in cases which require an unusual measure of time or expertise.

STANDARD TWO: DUTIES & RESPONSIBILITIES OF PUBLIC DEFENDER ATTORNEYS AND PUBLIC DEFENDER CONTRACTORS

Public Defender Attorneys' and Public Defender Contractors' primary and most fundamental responsibility is to promote and protect the best interests of the client.

Representation shall be provided to all clients in a professional, skilled manner consistent with minimum standards set forth by the American Bar Association, applicable Washington State Bar Association Standards, the Rules of Professional Conduct for Attorneys, case law and applicable court rules defining the duties of counsel and the rights of defendants in criminal cases.

STANDARD THREE: CASELOAD LIMITS AND TYPES OF CASES

Caseload limits and types of cases for Public Defender Attorneys and Public Defender Contractors should allow each Attorney to give each client the time and effort necessary to ensure effective quality representation. No Attorney or firm rendering indigent defense services ~~shall~~ should accept workloads that, by reason of their excessive size, interfere with the rendering of ~~reasonable and~~ quality representation.

A Public Defender Contractor shall not allow his or her private law practice to interfere with the representation of indigent defendants.

1. Subject only to the considerations of subsection (3) and Standard 3A below, in a one-year period, no full time public defender attorney employed by the Spokane County Public Defender's Office or the Counsel For Defense ~~shall~~ should be expected to handle more than:

150 felony files, or

300 Misdemeanors, Provided in the following circumstances, the caseload may be adjusted up to no more than 400 cases depending upon:

- The caseload distribution between simple misdemeanors and complex misdemeanors; or
- Jurisdictional policies such as post-filing diversion and opportunity to negotiate resolution of large number of cases as non-criminal violations; or

- Other court administrative procedures that permit a defense lawyer to handle more cases.

250 Juvenile Offenders Cases, or

Dependency Cases: The number of Dependency cases per attorney per year, or the number of open Dependency cases at a given time per attorney, shall be determined by a contract between the Spokane County Public Defender and the Washington State Office of Public Defense.

2. In a one- year period, a public defender contract attorney ~~shall~~ should not be assigned more than a pro-rata share of public defense cases, in proportion to that attorney's additional private practice cases. For example, an attorney with a public defense contract of 75 felonies per year, shall not have more than a half-time private practice case load

3. Certain factors not accounted for by RCW 10.101.030 or Standard Three: Caseload Limits and Types of Cases found in the Washington Public Defender Association Standards for Public Defense Services received from the Washington Defense Association as Adopted/Amended by the Committee on Public Defense (September 2007) also bear upon the number of cases a public defender attorney can effectively handle, including but not limited to the severity and complexity of the cases, the prosecutor's resources and practices, the location of the jail and courts relative to the attorney's office, the availability of diversionary tracks such as "Drug Court" and "Therapeutic Mental Health Court" and Community Relicensing programs, the docketing practices of the local courts, the definition of a "case," and the availability of support staff and limited practice personnel.

If the total number of cases handled by the Spokane County Public Defender's Office and Counsel for Defense considered together for a given year exceed 110 percent of the caseloads specified in this Section in a given calendar year, or are less than 90 percent of the caseloads specified in this Section in a given calendar year, the Board and the Public Defender will confer and consider adopting various strategies to address the increase or decrease in case load.

STANDARD 3A: NUMERICAL CASE WEIGHTING

(Note: For the purpose of this Standard, the terminology SID shall mean "Standards for Indigent Defense" adopted by the Washington State Supreme Court)

Recognizing cases should be assessed by the workload required.

Early Case Resolution (ECR) is a docket that accepts pleas from defendants whose cases have been screened and diverted into the ECR court. The Prosecutor's Office screens the cases for acceptance into the ECR unit and makes an expedited plea offer to the defendant. The Public Defender's Office has an ECR Unit. The attorneys in the ECR unit counsel and advise defendants about the charges, any defenses and the consequences of accepting or rejecting the plea offers. Defendants may opt out of ECR court by not accepting the plea offer or by being diverted to a therapeutic court. ECR attorneys are not responsible for defending the client against the underlying charges after the client's participation in ECR court has ended.

ECR cases that do not settle by a plea in ECR court are to be counted at 1/3. ECR cases that settle by a plea in the ECR court after 2 or more court hearings are to be counted at 1/2. Cases settled by pleas of guilty on a first appearance or arraignment docket with only one court appearance must be counted as one (1) case. Cases which are complex, serious, or contribute more significantly to attorney workload than average should be weighted upward.

Drug Court is a specialty or therapeutic court under SID 3.6 (B) (iii) in that Drug Court attorneys are not responsible for defending the client against the underlying charges before or after the client's participation in the specialty or therapeutic court.

Drug Court cases are to be counted at (1/3) recognizing that numerous hearings and extended monitoring of client cases in such court significantly contribute to attorney workload and in many instances such cases may warrant allocation of full case weight or more.

Sentence violations, revocations, extraditions, representations of material witnesses and other matters or representations of clients that do not involve new criminal charges are to be case weighted at (1/3) understanding cases which are complex, serious, or contribute more significantly to attorney workload than average should be weighted 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.

STANDARD FOUR: EXPERT EXPENSES

Public Defender Attorneys and Public Defender Contractors shall have reasonable resources for expert witnesses necessary for preparation and presentation of the defense of the case. Funds for expert witnesses shall be maintained separately from funds provided for expert services. Public Defender Contractors' requests for expert witness fees under Court Rule 3.1(f) should be made through an ex parte motion. The defense should be free to choose the expert of its choosing and in no cases should be forced to select experts from a list pre-approved by either the court or the prosecution.

STANDARD FIVE: ADMINISTRATIVE COSTS

Funding for the Public Defender's Office and the Office of Counsel for Defense should include funding for administrative costs associated with providing legal representation such as telephone, case-management systems, law library, data processing, office supplies, postage and other expenses necessarily incurred in the day-to-day management of the offices.

STANDARD SIX: INVESTIGATORS

The Public Defender's Office and the Office of Counsel for Defense should be staffed with sufficient qualified investigators.

The Washington Public Defender Association Standards for Public Defense Services received from the Washington Defense Association as Adopted/Amended by the Committee on Public Defense (September 2007) includes a standard addressing the number of investigators. (Standard

Six: Investigators). It provides that a minimum of one investigator should be employed for every four attorneys. This standard will be given due consideration in providing staffing levels for Public Defender Attorneys.

STANDARD SEVEN: SUPPORT SERVICES

The Public Defender's Office and the Office of Counsel for Defense should be adequately staffed with secretaries and paralegals, as well as have access to mental health professionals and interpreters. The Washington Public Defender Association Standards for Public Defense Services received from the Washington Defense Association as Adopted/Amended by the Committee on Public Defense (September 2007) includes a standard addressing the number of secretaries. (Standard Seven: Support Services). It provides that a minimum of one secretary should be employed for every four attorneys. This standard will be given due consideration in providing staffing levels for Public Defender Attorneys.

STANDARD EIGHT: REPORTS OF ATTORNEY ACTIVITY AND VOUCHERS

Public Defender Attorneys and Public Defender Contractors shall maintain a case-reporting and management information system which tracks the number and type of cases, attorney hours and disposition.

This information shall be available to the Board and to the Washington State Administrator of the Courts. *Provided*, the Public Defender's Office and the Office of Counsel for Defense shall not be required to provide any information that compromises client confidentiality.

STANDARD NINE: TRAINING

As a condition being licensed to practice law in the State of Washington, attorneys are required to attend fifteen (15) hours of legal training each year. For Public Defender Attorneys, at least seven (7) training hours each year will be in criminal defense.

The Public Defender's Office and the Office of Counsel for Defense will maintain updated manuals for specific areas of practice within their offices, and will document an orientation for newly hired attorneys.

Public Defender Contractors should document at least five (5) hours of required training annually in the specific area of criminal defense contemplated by their contract with the County.

STANDARD TEN: SUPERVISION

The Public Defender's Office and the Office of Counsel for Defense should provide one full-time supervising attorney for every ten (10) staff attorneys and one half-time supervisor for every five (5) attorneys.

A Supervisor should be chosen from among the lawyers qualified under these standards to try Class A felonies, should serve on a rotating basis, and should not carry a caseload if supervising ten (10) or more attorneys.

STANDARD ELEVEN: MONITORING AND EVALUATION OF ATTORNEYS

There should be a systematic procedure for monitoring and evaluating the performance of Public Defender Attorneys and Supervisors.

Such evaluations should be performed by Supervisors on a regular basis, should be according to published criteria, and should include review of time and caseload records, in-court observations, review and inspection of transcripts where possible, review of files, in-court observations, and should consider any comments of judges, prosecutors, other defense attorneys and clients.

Attorneys should be evaluated on their skill and effectiveness as trial lawyers and their organizational abilities.

STANDARD TWELVE: SUBSTITUTION OF ATTORNEYS OR ASSIGNMENT OF CONTRACT

Public Defender Contractors should not sub-contract with another attorney or firm to provide representation, and should remain directly involved in the representation of assigned clients.

The Board or the Public Defender's Office letting the contracts or assigning clients to the Public Defender Contractors should request the names and qualifications of the attorneys who will be directly representing the clients and ensure that such attorneys meet the minimum requirements set forth in these standards.

Any agreement with Public Defender Contractors shall address the continued representation of assigned clients at the expiration of the Agreement.

STANDARD THIRTEEN: LIMITATION ON PRIVATE PRACTICE OF CONTRACT ATTORNEYS

Public Defender Contractors shall be limited in the amount of privately-retained work which they may accept, in proportion to the percentage of a full-time Public Defender caseload for which they contract.

STANDARD FOURTEEN: QUALIFICATION OF ATTORNEYS

1. **In order to assure that indigent accused receive the effective assistance of counsel to which they are constitutionally entitled, attorneys providing defense services should meet the following minimum professional qualifications:**
 - A. Satisfy the minimum requirements for practicing law in Washington as determined by the Washington Supreme Court; and
 - B. Be familiar with the statutes, court rules, constitutional provisions, and case law relevant to their practice areas; and

- C. Be familiar with the collateral consequences of a conviction, including possible immigration consequences and the possibility of civil commitment proceedings based on a criminal conviction; and
- D. Be familiar with mental health issues and be able to identify the need to obtain expert services; and
- E. Complete seven hours of continuing legal education within each calendar year in courses relating to their public defense practice.

2. Trial attorneys' qualifications according to severity or type of case:

- A. Death Penalty Representation. Each attorney acting as lead counsel in a death penalty case or an aggravated homicide case in 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 (5) years criminal trial experience; and
- iii. have prior experience as lead counsel in no fewer than nine (9) 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 jury trial in which the death penalty was sought; and
- v. have experience in preparation of mitigation packages in aggravated homicide or persistent offender cases; and
- vi. have completed at least one (1) death penalty defense seminar within the previous two (2) years; and
- vii. meet the requirements of Superior Court Special Proceedings Rules – Criminal Rule 2 (SPRC 2).

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 staff attorney representing a defendant accused of a Class A felony as defined in RCW 9A.20.020 shall meet the following requirements:

- i. Minimum requirements set forth in Section 1, and
- ii. Either: has served two (2) years as a prosecutor; or
 - a. has served two (2) years as a public defender; or two (2) year in a private criminal practice, and
 - b. has been trial counsel alone or with other trial counsel and handled a significant portion of the trial in three (3) felony cases that have been submitted to a jury.

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

- i. Minimum requirements set forth in Section 1, and
- ii. Either:
 - a. has served one (1) year as prosecutor; or
 - b. has served one (1) year as public defender; or one (1) 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 (2) Class C felony cases that have been submitted to a jury.

D. **Adult Felony Cases - All other Class B Felonies, Class C Felonies, Probation or Parole Revocation.** Each staff attorney representing a defendant accused of a Class B felony not defined in C 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. Minimum requirements set forth in Section 1, and
- ii. Either:
 - a. has served one (1) year as a prosecutor; or
 - b. has served one (1) year as a public defender; or one (1) 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 (2) 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.

E. **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;
- ii. and
- iii. Have at least:
 - a. four (4) years criminal trial experience; and
 - b. one (1) year 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 (1) year of appellate experience or demonstrated legal writing ability.

F. Juvenile Cases - Class A. Each attorney representing a juvenile accused of a Class A felony shall meet the following requirements:

- i. Minimum requirements set forth in Section 1, and
- ii. Either:
 - a. has served one (1) year as a prosecutor; or
 - b. has served one (1) year as a public defender; one (1) year in a private criminal practice and
- iii. Has been trial counsel alone of record in five (5) 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.

G. 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. Minimum requirements set forth in Section 1; and
- ii. Either:
 - a. has served one (1) year as a prosecutor; or
 - b. has served one (1) year as a public defender; or one (1) year in a private criminal practice, and
 - c. has been trial counsel alone in five (5) misdemeanor cases brought to a final resolution; and
- iii. Each attorney shall be accompanied at his or her first juvenile trial by a supervisor, if available.

H. 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 a least two (2) similar cases under the supervision of a more experienced attorney or completed at least three (3) hours of CLE training specific to “status offense” cases; or
 - b. have participated in a least one (1) consultation per case with a more experienced attorney who is qualified under this section.

- I. **Misdemeanor Cases.** Each attorney representing a defendant involved in a matter concerning a gross misdemeanor or condition of confinement, shall meet the requirements as outlined in Section 1.
- J. **Dependency Cases.** Each attorney representing a client in a dependency matter shall meet the following requirements:
- i. The minimum requirements as outlined in Section; and
 - ii. Attorneys handling termination hearings shall have six (6) 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 a least one (1) consultation per case either with a State Office or Public Defense resource attorney or other attorney qualified under this section.
- K. **Civil Commitment Cases.** Each attorney representing a respondent shall meet the following requirements:
- i. 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 (1) year as a prosecutor, or
 - b. served one (1) year as a public defender, or one year in a private civil commitment practice, and
 - c. been trial counsel in five (5) 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.
- L. **Sex Offender “Predator” Commitment Cases.** Generally, there should be two (2) 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 a least:
 - a. Three (3) years criminal trial experience; and
 - b. One (1) year experience as a felony defense attorney or one (1) year experience as a criminal appeals attorney; and

- c. Experience as lead counsel in at least one 91) 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 (1) year of appellate experience or demonstrated legal writing ability.

Other counsel working on a sex offender commitment cases should meet the Minimum Requirements in Section 1 and have either one (1) year experience as a Public Defender or significant experience in the preparation of criminal cases, including legal research and writing and training in trial advocacy.

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

- i. Minimum requirements set forth in Section 1; and
- ii. Each staff attorney shall be accompanied at his or her first three 93) contempt of court hearings by a supervisor or more experienced attorney, or participate in a least one 91) consultation per case with a State Office or Public Defense resource attorney or other attorney qualified in this area of practice.

N. 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. 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.

3. RALJ Misdemeanor Appeals to Superior Court:

Each attorney who is counsel alone for a case on appeal to the Superior Court from 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 an RALJ appeal.

STANDARD FIFTEEN: DISPOSITION OF CLIENT COMPLAINTS

The Public Defender's Office and Counsel for Defense shall promptly respond to clients who make complaints and should keep a written record of the complaints and the response.

Complaints should be first directed to the attorney handling the case, then to a supervisor. If the complaint cannot be resolved by the respective office, the complainant should be informed of other avenues including the courts or the bar association.

Agreements with Public Defender Contractors who accept conflict cases should include a procedure to respond to client complaints.

STANDARD SIXTEEN: CAUSE FOR TERMINATION OR REMOVAL OF ATTORNEY

Contracts with Public Defender Contractors should only be terminated prior to their expiration for cause, which could include failure of the attorney to render adequate representation to the client, willful disregard of the rights and best interests of the client, or willful disregard of the standards set forth herein.

Representation in an individual case establishes an inviolable attorney-client relationship. Removing an attorney from a case should ordinarily not occur over the objection of the client.

STANDARD SEVENTEEN: NON-DISCRIMINATION

Neither the Board, Public Defender's Office, Counsel for Defense or Public Defender Contractors in their hiring practices to provide public defense representation, nor the attorneys selected, in their representation of clients, shall discriminate on the grounds of race, color, religion, national origin, age, marital status, sex, sexual orientation or disability.

The Board, Public Defender's Office, Counsel for Defense, and Public Defender Contractors shall comply with all federal, state, and local non-discrimination requirements.

STANDARD EIGHTEEN: GUIDELINES FOR AWARDING DEFENSE CONTRACTS

The Board or Public Defender's Office should award contracts for public defense services only after it determines that the attorney or firm chosen can meet accepted professional standards.

Contracts should be awarded only to attorneys who have at least one year's experience in the jurisdiction covered by the contract, or to firms where at least one attorney performing the services under the contract has at least one year's experience in the jurisdiction covered by the contract.