

ORDINANCE NO. 1573D

An ORDINANCE amending Chapter 10.100 of the Thurston County Code relating to standards for the delivery of public defense services.

WHEREAS, RCW 10.101.030 requires counties to adopt standards for the delivery of public defense services, and;

WHEREAS, RCW 10.101.060 requires adoption by ordinance of a legal representation plan that addresses the factors in RCW 10.101.030 in order to be eligible to receive appropriated funds from the office of public defense, and;

WHEREAS, on June 3, 2011, the Board of Governors of the Washington State Bar Association endorsed updated Standards for Public Defense Services.

WHEREAS, the Board of County Commissioners of Thurston County adopted Ordinance 14114 on September 8, 2018, which created Chapter 10.100 of the Thurston County Code relating to standards for the delivery of public defense services;

WHEREAS, Chapter 10.100 of the Thurston County Code is inconsistent with statewide Standards for Public Defense Services; and

WHEREAS, the Board of County Commissioners of Thurston County believes it is in the best interest of Thurston County for Chapter 10.100 of the Thurston County Code to be current with Standards for Public Defense Services; and

WHEREAS, a public hearing was held on January 29, 2019 to hear comments on the proposed ordinance.

NOW, THEREFORE, the Board of County Commissioners of Thurston County, Washington, does ordain as follows:


Section 1. Section 16.04.110 of the Thurston County Code is hereby revised to read as set forth in Attachment A, attached hereto and incorporated herein by reference.

Section 2. Severability. If any section, clause or provision of this Ordinance is declared by the courts to be invalid, the same shall not affect the validity of this Ordinance as a whole or any part thereof, other than the part so declared to be invalid.

Section 3. Effectiveness. This ordinance shall take effect immediately upon adoption.

ADOPTED: 1-29-19


ATTEST:


Clerk of the Board


BOARD OF COUNTY COMMISSIONERS
Thurston County, Washington


APPROVED AS TO FORM:
JON TUNHEIM
PROSECUTING ATTORNEY

By:


Scott Cushing
Deputy Prosecuting Attorney


Chair


Vice-Chair


Commissioner

[CODIFY]

Attachment A:

Chapter 10.100 - STANDARDS FOR THE DELIVERY OF PUBLIC DEFENSE SERVICES

Sections:

10.100.010 - Standard one—Compensation.

Public defense attorneys and staff should be compensated at a rate commensurate with their training and experience. To attract and retain qualified personnel, compensation and benefit levels should be comparable to those of attorneys and staff in prosecutorial offices in the area. For assigned counsel reasonable compensation should be provided. Compensation should reflect the time and labor required to be spent by the attorney and the degree of professional experience demanded by the case. Assigned counsel should be compensated for out-of-pocket expenses.

Contracts should provide for extraordinary compensation over and above the normal contract terms for cases which require an extraordinary amount of time and preparation, including, but not limited to, death penalty cases. Services which require extraordinary fees shall be defined in the contract. Attorneys who have a conflict of interest shall not have to compensate the new, substituted attorney out of their own funds.

Flat fees, caps on compensation, and lump-sum contracts for trial attorneys are improper in death penalty cases. Private practice attorneys appointed in death penalty cases should be fully compensated for actual time and service performed at a reasonably hourly rate with no distinction between rates for services performed in court and out of court. Periodic billing and payment should be available. The hourly rate established for lead counsel in a particular case should be based on the circumstances of the case and the attorney being appointed, including the following

factors: the anticipated time and labor required in the case, the complexity of the case, the skill and experience required to provide adequate legal representation, the attorney's overhead expenses, and the exclusion of other work by the attorney during the case. Under no circumstances should the hourly rate for lead counsel, whether private or public defender, appointed in a death penalty case be less than \$125 per hour (in 2006 dollars).

(Ord. No. 14114, Exh. A, 9-8-2008)

10.100.020 - Standard two—Duties and responsibilities of counsel.

The legal representation plan shall require that defense services 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, case law and applicable court rules defining the duties of counsel and the rights of defendants in criminal cases. Counsel's primary and most fundamental responsibility is to promote and protect the interests of the client.

(Ord. No. 14114, Exh. A, 9-8-2008)

10.100.030 - Standard three—Caseload limits and types of cases.

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 of cases which each attorney shall be expected to handle.

The caseload of public defense attorneys shall allow each lawyer to give each client the time and effort necessary to ensure effective representation. Neither defender organizations, county offices, contract attorneys nor assigned counsel should accept workloads that, by reason of their excessive size, interfere with the rendering of 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.

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

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

If a defender or assigned counsel is carrying a mixed caseload including cases from more than one category of cases, these standards should be applied proportionately to determine a full caseload. In jurisdictions where assigned 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 cases in the attorney's caseload. The following types of cases fall within the intended scope of the caseload limits for criminal and juvenile offender cases in Standard 3.4 and must be taken into account when assessing an attorney's numerical caseload: partial case representations, sentence

violations, specialty or therapeutic courts, transfers, extraditions, representation of material witnesses, petitions for conditional release or final discharge, and other matters that do not involve a new criminal charge.

Definition of case: A case is defined as the filing of a document with the court naming a person as defendant or respondent, to which an attorney is appointed in order to provide representation. In courts of limited jurisdiction multiple citations from the same incident can be counted as one case.

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 *supra*; 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.

Case Counting: The local government entity 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. A numerical case 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; and
- 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. Notwithstanding any case weighting system, 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.

Case Weighting: 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.

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.

Case Weighting Downward: Listed below are some specific 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 many instances such cases may warrant allocation of full case weight or more.
- IV. Cases on a criminal or offender first appearance or arraignment docket where the attorney is designated, appointed or contracted to represent groups of clients on that docket without an expectation of further or continuing representations and which are not resolved at that time (except by dismissal). In such circumstances, consideration should be given to adjusting the caseload limits appropriately, recognizing that case weighting

must reflect that attorney workload includes the time needed for appropriate client contact and preparation as well as the appearance time spent on such dockets.

- V. 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 non-criminal disposition that does not involve a finding of guilt. Such cases should be weighted as at least 1/3 of a case.

(Ord. No. 14114, Exh. A, 9-8-2008)

10.100.040 - Standard four—Responsibility for expert witnesses.

Reasonable compensation for expert witnesses necessary to preparation and presentation of the defense case shall be provided. Expert witness fees should be maintained and allocated from funds separate from those provided for defender services. Requests for expert witness fees should be made through an ex parte motion. c. The defense should be free to retain 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.

(Ord. No. 14114, Exh. A, 9-8-2008)

10.100.050 - Standard five—Administrative costs.

Contracts for public defense services shall 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, financial accounting, case management systems, computers and software, office space and supplies, training, meeting the reporting requirements imposed by these standards, and other costs necessarily incurred in the day-to-day management of the contract. Public defense attorneys shall have an office that accommodates confidential meetings with clients and receipt of mail, and adequate telephone services to ensure prompt response to client contact.

(Ord. No. 14114, Exh. A, 9-8-2008)

10.100.060 - Standard six—Investigators.

Public defense attorneys shall use investigation services as appropriate. Public defender offices, assigned counsel, and private law firms holding public defense contracts should employ investigators with investigation training and experience. A minimum of one investigator should be employed for every four attorneys.

(Ord. No. 14114, Exh. A, 9-8-2008)

10.100.070 - Standard seven—Support services.

Public defense attorneys shall have adequate number of investigators, secretaries, word processing staff, paralegals, social work staff, mental health professionals and other support services, including computer system staff and network administrators. These professionals are essential to ensure the effective performance of defense counsel during trial preparation, in the preparation of dispositional plans, and at sentencing.

1. Legal Assistants – At least one full-time legal assistant should be employed for every four attorneys. Fewer legal assistants may be necessary, however, if the agency or attorney has access to word processing staff, or other additional staff performing clerical work. Defenders should have a combination of technology and personnel that will meet their needs.
2. Social Work Staff- Social work staff should be available to assist in developing release, treatment, and dispositional alternatives.
3. Mental Health Professionals- Each agency or attorney should have access to mental health professionals to perform mental health evaluations.
4. Investigation staff should be available as provided in Standard Six at a ratio of one investigator for every four attorneys.
5. Each agency or attorney providing public defense services should have access to adequate and competent interpreters to facilitate communication with non-English speaking and hearing-impaired clients for attorneys, investigators, social workers, and administrative staff.

(Ord. No. 14114, Exh. A, 9-8-2008)

10.100.080 - Standard eight—Reports of attorney activity.

The legal representation plan shall require that the defense attorney or office maintain a case-reporting and management information system which includes number and type of cases, attorney hours and disposition. This information shall be provided regularly to the Contracting Authority and shall also be maintained independently from client files so as to disclose no privileged information.

A standardized voucher form shall be used by assigned counsel attorneys seeking payment upon completion of a case. 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.

(Ord. No. 14114, Exh. A, 9-8-2008)

10.100.090 - Standard nine—Training.

The legal representation plan shall require that attorneys providing public defense services participate in regular training programs on criminal defense law, including a minimum of seven hours of continuing legal education annually in areas relating to their public defense practice.

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 procedure and policy. All attorneys should be required to attend regular in-house training programs on developments in criminal law, criminal procedure and the forensic sciences.

Attorneys in civil commitment and dependency practices should attend training programs in these areas. Offices should also develop manuals to inform new attorneys of the rules and procedures of the courts within their jurisdiction.

Every attorney providing counsel to indigent accused should have the opportunity to attend courses that foster trial advocacy skills and to review professional publications and other media.

(Ord. No. 14114, Exh. A, 9-8-2008)

10.100.100 - Standard ten—Supervision.

Each agency or firm providing public defense services should provide one full-time supervisor for every ten staff lawyers or one half-time supervisor for every five lawyers. Supervisors should be chosen from among those lawyers in the office qualified under these guidelines to try Class A felonies. Supervisors should serve on a rotating basis, and except when supervising fewer than ten lawyers, should not carry caseloads.

(Ord. No. 14114, Exh. A, 9-8-2008)

10.100.110 - Standard eleven—Monitoring and evaluation of attorneys.

The legal representation plan for provision of public defense services should establish a procedure for systematic monitoring and evaluation of attorney performance based upon publicized criteria. Supervision and evaluation efforts should include review of time and caseload records, review and inspection of transcripts, in-court observations, and periodic conferences.

Performance evaluations made by a supervising attorney should be supplemented by comments from judges, prosecutors, other defense lawyers and clients. Attorneys should be evaluated on their skill and effectiveness as criminal lawyers or as dependency or civil commitment advocates.

(Ord. No. 14114, Exh. A, 9-8-2008)

10.100.120 - Standard twelve—Substitution of counsel.

The attorney engaged by local government to provide public defense services should not sub-contract with another firm or attorney to provide representation and should remain directly involved in the provision of representation. If the contract is with a firm or office, the contracting authority should request the names and experience levels of those attorneys who will actually be providing the services, to ensure they meet minimum qualifications. The employment agreement shall address the procedures for continuing representation of clients upon the conclusion of the contract. Alternate or conflict counsel should be available for substitution in conflict situations at no cost to the counsel declaring the conflict.

(Ord. No. 14114, Exh. A, 9-8-2008)

10.100.130 - Standard thirteen—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 represent.

(Ord. No. 14114, Exh. A, 9-8-2008)

10.100.140 - Standard fourteen—Qualifications 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 shall meet the following minimum professional qualifications:
 - A. Satisfy the minimum requirements for practicing law in Washington as determined by the Washington Supreme Court; and
 - B. Be familiar with the statutes, court rules, constitutional provisions, and case law relevant to their practice area; and
 - C. Be familiar with the Washington Rules of Professional Conduct; and
 - D. Be familiar with the Performance Guidelines for Criminal Defense Representation approved by the Washington State Bar Association; and E. Be familiar with the consequences of a conviction or adjudication, including possible immigration consequences and the possibility of civil commitment proceedings based on a criminal conviction; and
 - E. Be familiar with mental health issues and be able to identify the need to obtain expert services; and;
 - F. 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:

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 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 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

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.

- A. 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. 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 trial counsel and handled a significant portion of the trial in three felony cases that have been submitted to a jury.
- B. 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. Minimum requirements set forth in Section 1, and
 - ii. Either:
 - a. has served one year as prosecutor; or
 - b. has served one year as 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.
 - I. C. Adult Sex Offense Cases. Each attorney representing a client in an adult sex offense case shall meet the following requirements: The minimum requirements set forth in Section 1 and Section 2(C); and
 - II. Been counsel alone or 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.
- D. Adult felony cases - All other Class B Felonies, Class C Felonies Probation or Parole Revocation. Each attorney representing a defendant accused of a Class B felony not defined in Section 2 (C) or (D) above or a Class C felony, as defined in RCW 9A.20.020, or involved in a probation or parole revocation hearing shall meet the following requirements:
- i. 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.

- 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. Minimum requirements set forth in Section 1; and
 - ii. Have at least:
 - a. four years criminal trial experience; and
 - b. one-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 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 year as a prosecutor; or
 - b. Has served one year as a public defender; one year in a private criminal practice and
 - iii. Has been trial counsel alone of record in five Class B and C felony trials.
 - 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 year as a prosecutor; or
 - b. has served one year as a public defender; or one year in a private criminal practice.
 - 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.

- H. 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. 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.
- I. Juvenile Status Offense 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.
- J. 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 set forth in Section 1.
- K. 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.
- L. 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 ninety or one hundred and eighty-day commitment hearing by a supervisor; and
 - iii. Shall not represent a respondent in a ninety or one hundred and eighty-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 ninety or one hundred and eighty-day commitment hearing.
- M. Sex Offender "Predator" Commitment cases: Counsel shall meet the following requirements:
- i. Minimum requirements set forth in Section 1; and
 - ii. Have at least:
 - a. Three years criminal trial experience;
 - b. One-year experience as a felony defense attorney or one-year experience as a criminal appeals attorney;
 - 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 cases should meet the Minimum Requirements in Section 1 and have either one-year experience as public defender or significant experience in the preparation of criminal cases, including legal research and writing and training in trial advocacy.

- N. 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 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.
- O. 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. 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 an RALJ appeal.

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 to inform them of office procedure and policy Standard Nine, Training.

(Ord. No. 14114, Exh. A, 9-8-2008)

10.100.150 - Standard fifteen—Disposition of client complaints.

Each agency or firm or individual contract attorney providing defense services shall have a method to respond promptly to client complaints.

Complaints should first be directed to the attorney, firm or agency which provided representation. If the client feels that he or she has not received an adequate response, the contracting authority or public defender administrator should designate a person or agency to evaluate the legitimacy of complaints and to follow up meritorious ones. The complaining client should be informed as to the disposition of his or her complaint within one week. Other avenues including the courts or the bar association.

(Ord. No. 14114, Exh. A, 9-8-2008)

10.100.160 - Standard sixteen—Cause for termination of Defender Services and Removal of Attorney.

Contracts for indigent defense services shall include the grounds for termination of the contract by the parties. Termination of a provider's contract should only be for good cause. Termination for good cause shall include the failure of the attorney to render adequate representation to clients; the willful disregard of the rights and best interests of the client; and the willful disregard of the standards herein addressed.

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

(Ord. No. 14114, Exh. A, 9-8-2008)

10.100.170 - Standard seventeen—Non-discrimination.

Neither the Contracting Authority, in its selection of an attorney, firm or agency to provide public defense representation, nor the attorneys selected in their hiring practices or in their representation of clients on the grounds of race, color, religion, national origin, age, marital status, gender, sexual orientation or disability. Both the contracting authority and the contractor shall comply with all federal, state, and local non-discrimination requirements.

(Ord. No. 14114, Exh. A, 9-8-2008)

10.100.180 - Standard eighteen—Guidelines for Awarding Defense Contracts

The county or city should award contracts for public defense services only after it determining that the attorney or firm chosen can meet accepted professional standards. Under no circumstances should a contract be awarded on the basis of cost alone. Attorneys or firms bidding for contracts must demonstrate their ability to meet these standards.

Contracts should only be awarded to a) attorneys who have at least one year's criminal trial experience in the jurisdiction covered by the contract (i.e., City and District Courts, Superior Court or Juvenile Court), or b) to a firm where at least one attorney has one year's trial experience.

City attorneys, county prosecutors, and law enforcement officers should not select the attorneys who will provide indigent defense services.

(Ord. No. 14114, Exh. A, 9-8-2008)