

# CITY OF VANCOUVER INDIGENT DEFENSE STANDARDS

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### 1. Purpose of the City’s Caseload Weighting Standards

The City of Vancouver (“City”) is committed to ensuring that all indigent persons charged with a criminal offense in Clark County District Court (“District Court”), and who have been found eligible for assignment of indigent defense counsel paid by the City, and to ensure they receive effective legal assistance.

These Vancouver Indigent Defense Standards (“Standards”) are intended to provide minimum service standards for Public Defense Attorneys assigned to represent individuals eligible for City indigent defense services, and to implement a system for weighting misdemeanor public defense cases for purposes of certifying public defense misdemeanor caseloads pursuant to the Washington Supreme Court’s Standards for Indigent Defense. These Standards recognize that appropriate case weighting allows reasonable workloads for Public Defense Attorneys consistent with applicable state rules, standards, and applicable law.

The City will review these Standards as needed to ensure that all clients assigned a Public Defense Attorney under City contract will continue to receive effective assistance in District Court.

### 2. Applicable Court Rules, Regulations, and Standards

A. Specific applicable rules related to public defense. These Standards are based upon the requirements and guidelines for effective public defense contained in the following:

- (1) Washington State Rules of Professional Conduct;
- (2) Criminal Rules for Courts of Limited Jurisdiction;
- (3) Washington State Bar Association Standards for Indigent Defense Services (2024)
- (4) Washington Supreme Court Standards for Indigent Defense;
- (5) Chapter 10.101 RCW;
- (6) Office of Public Defense Model Case Weighting Policy; and
- (7) Washington Supreme Court General Rule 42.

B. Right to effective assistance of counsel. The right of an indigent person to effective assistance of counsel in a criminal case flows from the language of the Sixth Amendment of the federal Constitution, and is applied to the states via the Due Process Clause of the Fourteenth Amendment. See, e.g., *Gideon v. Wainwright*, 372 U.S. 335 (1963).

In the State of Washington, the right to counsel for a defendant in a criminal case is also guaranteed under Article I, Section 22 of the state Constitution (“Rights of the Accused”), and is codified in chapter 10.101 RCW.

C. Statutes governing standards for indigent defense. Washington requires that cities adopt standards for public defense services. RCW 10.101.030. This states that any standards for indigent defense “endorsed by the Washington state bar association for the provision of public defense services should serve as guidelines to local legislative authorities in adopting standards.” However, the state Supreme Court has outlined and adopted new general requirements for effective representation of indigent persons, below, to supplement the WSBA standards.

D. Caseload limits adopted by Supreme Court. The Washington State Supreme Court adopted new caseload limits for attorneys representing criminal defense clients on June 9, 2025, further clarified by the Court’s order November 6, 2025. These caseload limits become effective January 1, 2026. Effective January 1, 2026, the caseload standard for each full-time appointed misdemeanor attorney for any 12-month period shall be 120 (nonweighted) case credits. Implementation of these case load standards may be accomplished in a phased approach with an annual reduction of at least 10% of the difference between the current standard 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. Case weighting to measure case credits is permissible and is encouraged.

E. Weighted Case Implementation Schedule. The City adopts the following caseload limits effective January 1, 2026:

Date	# of Cases Non-weighted	# of Cases Weighted
01/01/26	372	279
01/01/27	344	258
01/01/28	316	237
01/01/29	288	216
01/01/30	260	195
01/01/31	232	174
01/01/32	204	153
01/01/33	176	132
01/01/34	148	111
01/01/35	120	90

*NOTE:* While the Standards allow a small degree of flexibility in how a city decides to weight its cases, the Standards do not allow a Public Defense Attorney to exceed the new maximum number of misdemeanor cases handled by each Public Defense Attorney in any 12-month period. In addition, should the number of public defense cases require three full-time Public Defense Attorneys to stay under the caseload limits for each Public Defense Attorney, the federal courts have ruled that a fourth full-time public defender is required to supervise the work of the other

three Public Defense Attorneys. (*Wilbur v. City of Mt. Vernon*, 989 Fed.Supp.2d 1122 (W.D. Wash.2013)).

F. Rule 9 interns. Rule 9 interns who have not graduated from law school cannot have caseloads that exceed 25% of the caseload limits established for full-time Public Defense Attorneys.

G. City must officially adopt a written weighting system and file it with the State. A City wanting a case-weighting system must adopt and publish written policies and procedures regarding case weighting for employing, contracting with, or appointing Public Defense Attorneys. The City must file its adopted weighting system with Washington State's Office of Public Defense.

### 3. Definitions

"Administrator" means the designated supervisor of the City's public defense services is the City Manager, or their written designee.

"Case" means the filing of a document with the court naming a person as a defendant or respondent, to which an attorney is appointed in order to provide representation.

a. In courts of limited jurisdiction, multiple citations from the same incident can be counted as one "case."

b. The number of counts in a single cause number does not affect the definition of a "case."

c. When there are multiple charges or counts arising from the same set of facts, the weighted credit will be assigned based on the most serious charge.

"Case weighting" means the process of assigning a numerical value, or "weighted credit," to specific types of cases that recognizes the greater or lesser attorney workload required for those cases compared to an average case.

"Caseload" means the complete array of cases in which an attorney represents or provides service to clients.

"Docket / Calendar" means a grouping of filings where a Public Defense Attorney is designated to represent indigent defendants without an expectation of further or continuing representation. Examples include, but are not limited to, first appearance calendars and arraignment calendars.

"Full time" means working approximately 40 hours per week. It is presumed that a "full time" Public Defense Attorney spends approximately 1,800 hours annually on case representation. It is expected that other work time is spent on administrative activities, attending CLEs, participating in professional associations or committees, and spending time on vacation, holiday, or sick leave.

"Local factors" means practices, characteristics, or challenges that are unique to the delivery of public defense in a given jurisdiction, and that substantially impact the time required for effective delivery of public defense services.

"Non-Charge Representations" means matters where Public Defense Attorneys represent clients who are eligible for public defense representation for matters that do not involve the filing of new criminal charges. Examples include, but are not limited to, sentence violations, extraditions, and representations of material witnesses

“Partial Representations” means situations where clients are charged with crimes, but representation is either cut short at early stages of the case, or begins significantly later. Such situations include, but are not limited to, client failures to appear, preliminary appointments in cases in which no charges are filed, withdrawals or transfers for any reason, or limited appearances for a specific purpose.

“Public Defense Attorney” means a licensed attorney who is either contracted to represent indigent defendants or is employed by another attorney or law firm to represent indigent defendants. “Public Defense Attorney” also refers to a licensed attorney who is list-appointed by District Court to represent indigent defendants on a case-by-case basis.

“Weighted credit” means one weighted credit represents a type of case which, on average, requires six hours of attorney time.

#### **4. Caseload limits**

The caseload of a full-time Public Defense Attorney for misdemeanor cases should not exceed the limits set forth in section 2(E) above. The caseload of a full-time Rule 9 intern who has not graduated from law school may not exceed 25% of the misdemeanor weighted credits per year.

#### **5. General Considerations**

A. Caseload limits reflect the maximum caseloads for fully supported full-time Public Defense Attorneys for cases of average complexity and effort.

B. Caseload limits are set to ensure that all Public Defense Attorneys have adequate time to provide quality representation.

C. Caseload limits presume a reasonably even distribution of cases throughout the year.

D. If the Public Defense Attorney is carrying a mixed caseload with non-misdemeanor cases, the attorney’s caseload should be calculated proportionately by case type, as provided in the Standards.

E. If the Public Defense Attorney also maintains a private law practice, the public defense caseload should be proportionate to the percentage of work time the attorney devotes to public defense, and their private practice work shall not diminish their ability to represent City indigent defense clients consistent with these Standards.

F. If the Public Defense Attorney provides public defense services in multiple courts, the combination of cases from all courts are used for caseload calculations.

#### **6. Weighted Credits**

A. The City weights misdemeanor cases as follows:

**1.5** - DUI, Physical Control, Assault 4- sexual motivation, Communicating with a Minor for Immoral Purposes

**1.0** - All gross misdemeanors not designated as 1.5 cases

**0.5** - All misdemeanors not designated as .33 cases

**0.33** - DWS 3, any case resolved at first appearance/arraignment, probation violations, deferred prosecution revocations, any other post-conviction matter

B. Because some charges may be amended as a result of further investigation, legal issues, or negotiation, the weight assigned to each case is determined by the final type of charge to which a guilty finding is ultimately entered.

Weights may be adjusted upward or downward on a case-by-case basis, but cannot be adjusted downward greater than .05 credits, pursuant to the Office of Public Defense Model Weighting Policy except as allowed in these Standards.

In all cases, even those with fewer weighted credits and those that may be resolved by routine non-criminal resolutions such as diversion or reduction to an infraction, an appointed Public Defense Attorney must first meet the basic requirements for providing effective assistance of counsel, such as interviewing and fully communicating with the client, carefully reviewing the evidence, obtaining records, investigating as appropriate, and preparing for court.

C. Resolution of cases by pleas of guilty to criminal charges at a first appearance or arraignment hearing are presumed to be rare occurrences requiring careful evaluation of the evidence and the law, as well as thorough communication with clients. Therefore, if a Criminal Defense Attorney is appointed, these guilty pleas must be valued as one case as appropriately weighted.

D. When an attorney is appointed to represent clients facing charges that, by local practice, are resolved at an early stage by diversion, reduction to an infraction, stipulated order of continuance, or other alternative non-criminal disposition that does not involve a finding of guilt, the Public Defense Attorney can count them as no less than 1/3 of a case.

E. A partial representation is counted based on the amount of time that a Public Defense Attorney has spent on the case. Each hour of work is assigned 0.17 weighted credits, up to the maximum weighted credits normally assigned for the case type.

F. Cases on a criminal first appearance or arraignment docket where the attorney is designated, appointed, or contracted to represent a group of clients without an expectation of further or continuing representation and which are not resolved at that time (except by dismissal or amendment to an infraction) are not counted individually.

## **7. Adjustments to Weighting**

**Case-Specific Adjustments.** Because credits are assigned to cases based on an average amount of time needed for each charge type, ordinary deviations in how complex a case is or how long it takes do not justify an adjustment to a case's credit value. It is assumed that attorneys will receive a mix of cases of varying complexity and effort, ending with a combination of cases that closely approximates a full-time caseload. However, an attorney may request that the weighted credit be adjusted upward for any particular case that involves substantially more work. Examples when a case weight may be adjusted upward include but are not limited to when a client's competency is litigated; extraordinarily long trials; or cases that go to jury trial more than once. Weighted credits may be adjusted based on the following:

Other examples of factors that may increase the amount of attorney time include:

- Long periods of time waiting for cases to be called in court

- Long periods of time waiting for access to clients in jail
- Long travel time to court, jail, crime scenes, or other meetings
- The scheduling of court appearances
- Absence of access to technology
- Whether cases are resolved through a therapeutic court
- Disproportionately high number of defendants with limited English
- Disproportionately high number of clients with mental illness

Examples of factors that may decrease the amount of attorney time include:

- Court calendars or dockets dedicated to public defense cases, resulting in reduced attorney waiting time; and
- Technology that demonstrably saves a Public Defense Attorney time, such as use of electronic discovery and videoconferencing with incarcerated clients.

Examples of factors that may support a reduction in weighted credits for review hearings include:

- The Public Defense Attorney need not wait long periods of time waiting for cases to be called in court.
- The Public Defense Attorney need not travel long distances to court, or other meetings.
- The scheduling of court appearances is done to maximize efficiency.
- The Public Defense Attorney has access to time-saving technology in the courtroom.
- Where a violation is alleged and proof of the violation by a preponderance of the evidence is available at the hearing, and the violation is stipulated to by the defendant, and the issue is resolved at the hearing, in such situations the Public Defense Attorney need only consult briefly with the defendant about the probable outcome of the hearing and present any mitigating factors to the court; no outside preparation or lengthy review of the evidence is required. This situation is analogous to reviewing and advising defendants as standby counsel for an arraignment calendar. Therefore, the Public Defense Attorney's general professional knowledge of caselaw, statutes and ordinances, and the policies of District Court, will be sufficient in these situations to provide adequate representation.

Based on these factors, the default weighted credits given to typical matters handled at sentence review hearings should be weighted at 0.17 credits per calendar hour. If a violation is disputed or unresolved, the default weight of 0.33 credits applies.

## **8. Effect of Appeals, Motions, Trials, Substitutions of Counsel**

A. Notwithstanding the usual default weight assigned under these Standards, whenever a case requires a Public Defense Attorney to present any other non-routine motion requiring significant legal research, investigation, or substantial time-consuming activity, the default weight of the case shall be increased to at least 1.0 case.

B. When a Public Defense Attorney must file an appeal or other request for post-conviction relief requiring significant legal research, investigation, or substantial time-consuming activity, the default weight assigned to such a case shall be increased to at least 1.0 case.

C. Where a person has retained private counsel after appointment of the Public Defense Attorney, or another Public Defense Attorney has officially taken over from the original Public Defense Attorney assigned to the case, the weight to be assigned shall be determined based on the amount of work performed by the withdrawing Public Defense Attorney and the stage of the proceedings at which withdrawal occurs.

D. No weight shall be assigned where a Public Defense Attorney has not yet filed a Notice of Appearance (NOA), or where no work has been performed by that attorney, other than appearing at arraignment, a review hearing, or some other type of proceeding, regardless of whether an NOA has been filed and regardless of whether the withdrawing Public Defense Attorney has technically been on the case at more than one hearing.

E. Where the withdrawing Public Defense Attorney has represented the person in substantive negotiations that resulted in setting a matter for motions, trial, or other evidentiary hearing other than an initial arraignment, but no formal hearing on these issues has yet occurred or no written materials researched or presented to the court on these issues, no additional weight shall be added to the default weight, absent special circumstances.

F. Where the withdrawing Public Defense Attorney represented the person at an evidentiary hearing or other proceeding that requires the caseload limits and has potentially represented one or more persons since exceeding those limits, that attorney must notify District Court immediately and attempt to identify which indigent defendants may have been affected.

G. When a Public Defense Attorney has exceeded these caseload limits, that Public Defense Attorney shall no longer handle any new assignments in District Court for the duration of the calendar year. However, that Public Defense Attorney may continue to work on all cases assigned before reaching the caseload limit.

H. If a Public Defense Attorney has exceeded the caseload limits, a Public Defense Attorney who has not exceeded the limits shall be substituted on each case to which the original Public Defense Attorney was assigned that is above the caseload limit.

## **9. Attorney Qualifications**

In addition to meeting minimum requirements for practicing law in Washington set by the WSBA and Washington State Supreme Court, each lead Public Defense Attorney shall have a minimum of three years of prior legal experience, with at least two of those devoted to the practice of criminal law.

## **10. Monitoring Compliance**

Pursuant to the Washington Supreme Court's Standards for Indigent Defense (2012), courts monitor compliance with caseload requirements by collecting and maintaining a record of quarterly compliance by each attorney who is working in that court providing indigent defense services.

A. Each Public Defense Attorney providing indigent defense services for the City must file quarterly with District Court a signed certification of compliance that complies with applicable state and local standards.

B. Each attorney providing indigent defense services for the City is responsible for maintaining compliance because it is the attorney who must ultimately be able to show effective assistance was provided to each defendant.

C. Each law firm providing contracted indigent defense services to the City shall maintain its own record of the number of cases assigned to each Public Defense Attorney on a monthly basis during each calendar year, as well as the weight assigned to each case. These records shall be made available to the court and City upon written request to enable discussion of any issues of compliance with these Standards.

D. Each attorney acting as a Public Defense Attorney for the City is ultimately responsible for monitoring compliance under these Standards. If the Public Defense Attorney and the City disagree on whether that attorney is about to exceed, or has exceeded, the misdemeanor caseload limits, that attorney shall not handle any additional misdemeanor cases in Washington courts for the balance of the calendar year and shall withdraw from any cases the City believes may be affected, pending additional review by the City.

#### **11. Effect of Public Defender Contract Terms**

A. These Policies supplement any City contract for the provision of indigent defense services.

B. The terms of any written contract between City and a law firm or attorney shall be presumed to control in matters of the implementation of, and compensation for, public defense services. Contracting attorneys are responsible for knowing whether their contract with the City meets applicable indigent defense standards. In the event of an apparent conflict between these Standards and an indigent defense contract, the City and attorney shall interpret the terms of a contract in a manner that is consistent with these Standards.