

Washington State Judicial Branch

2025-2027 Biennial Budget

Family Defense Law School Practicum

Agency: Office of Public Defense

Decision Package Code/Title: 1K – Law School Practicum

Agency Recommendation Summary Text:

The Office of Public Defense (OPD) requests funding to introduce law students to the child welfare legal field and encourage them to pursue the practice. OPD will partner with Washington law schools to develop and implement a child welfare legal practicum to prepare future attorneys for OPD Parents Representation Program contracts as well as other public service attorney roles in child welfare litigation. Historically, OPD has been able to fill Parents Representation contracts quickly with well-qualified applicants but that task is increasingly difficult, and the state lacks a classroom-to-courtroom pipeline for new practitioners. Updates to family defense standards further drive the need to draw more attorneys into this unique practice area.

Fiscal Summary: Funding is requested to develop coursework and internships to prepare new lawyers to practice in the child welfare legal field.

	FY 2026	FY 2027	Biennial	FY 2028	FY 2029	Biennial
Staffing						
FTEs	0.00	0.00	0.00	0.00	0.00	0.00
Operating Expenditures						
Fund 16A-1	\$750,000	\$750,000	\$1,500,000	\$750,000	\$750,000	\$1,500,000
Total Expenditures						
	\$750,000	\$750,000	\$1,500,000	\$750,000	\$750,000	\$1,500,000

Package Description:

Background and current situation:

The Washington State Office of Public Defense (OPD) has a statutory duty to provide effective legal counsel to represent indigent parents in dependency and termination of parental rights proceedings statewide. (See [RCW 2.70.020\(c\)](#).) To fulfill this responsibility, OPD's Parents Representation Program currently administers 127 FTE attorney contracts with county agencies, nonprofits, small firms, and sole practitioners throughout Washington to provide parent representation. The contracts include about 240 individual attorneys covering a mix of full-time and part-time positions to ensure adequate resources to address conflict cases and caseload capacity.

Parents Representation Program contract vacancies are up significantly in recent years, in part due to retirements and alternative employment opportunities. For example, turnover among contract attorneys increased statewide from 18.6% in fiscal year 2018 to 22.2% in Fiscal Year 2023. Contract turnover was especially alarming in Kitsap County at 71.4%, Spokane County at 50% and Chelan County at 66.7% in Fiscal Year 2023. OPD expects to see more Parents Representation Program contract vacancies as the Office of Civil Legal Aid (OCLA) requires similarly experienced attorneys to provide children's representation statewide.

Historically, OPD has been able to fill Parents Representation Program contracts quickly with well-qualified applicants but that task is becoming increasingly difficult, and the state lacks a pipeline for developing potential new child welfare

attorneys. In addition, the Washington State Bar Association (WSBA) Board of Governors recently approved updates to family defense standards that further drive a need to draw new attorneys into this unique practice area.¹

Unfortunately, law students and recent graduates typically are not knowledgeable about child welfare legal practice and do not have opportunities to build the requisite experience to qualify for an OPD Parents Representation Program contract. Law schools do not offer courses focused on child dependency or terminations of parental rights. At most, some relevant material may be covered in a “children and the law course,” or to a lesser extent in family law or constitutional law course. Such limited exposure to child welfare litigation does not provide the depth of information needed to understand this specialized area of law nor does it allow hands-on opportunities to practice the critical legal skills necessary to competently represent a party in this field².

Problem:

Indigent parents involved in a dependency or termination case have a right to effective counsel, and OPD has a statutory duty to provide counsel. But as Parents Representation Program contract attorneys retire or pursue other opportunities, OPD finds it increasingly difficult to attract qualified applicants for available contract attorney positions. While the 2024 Legislature appropriated funding to provide professional training for existing OPD contract attorneys, the agency lacks resources to help develop a ready workforce with the basic qualifications to work under a Parents Representation Program contract.

Proposed Solution:

OPD requests \$750,000 annually to partner with Washington law schools to develop and implement a child welfare legal practicum, including academic courses focused on child welfare law, clinical training programs, and internships to prepare future attorneys for a child welfare practice.³

This combination of coursework and skills-based learning exposes law students to a practice field while also giving them the experience required to competently work on an OPD Parents Representation Program contract or in another child welfare-related public law practice soon after graduation. Child welfare operations are a core state government function, and the state has a strong interest in ensuring a classroom-to-courtroom pipeline for the specialized attorney positions at OPD and OCLA.

OPD has executed a Memorandum of Understanding (MOU) with Gonzaga University School of Law and Seattle University School of Law and is continuing discussions for an MOU with the University of Washington School of Law⁴. In consultation with OPD, Gonzaga and Seattle University are beginning to develop relevant coursework and already have

¹ At its September 2024 meeting, the WSBA Board of Governors voted to approve updates to family defense standards which include new caseload limits. The updated standards direct public defense attorneys, including OPD Parents Representation Program contractors, to limit caseloads to 45 clients and 60 open cases by July 2025 and 35 clients and 40 open cases by July 2026. The WSBA has not yet posted the updated standards to its website, but a pdf document is attached at the end of this decision package.

² The [Washington State Supreme Court Standards on Indigent Defense](#), the proposed updated [Washington State Supreme Court Standards for Indigent Defense](#) and [Washington State Bar Association Standards for Indigent Defense Services](#) all require attorneys handling termination hearings to have at least six month’s dependency experience or have significant experience in handling complex litigation. Recently approved updates to WSBA family defense standards require the contracting authority to assure proficiency of new contractors prior to the attorney participating in any evidentiary hearing. Courts typically assign Parents Representation Program contract attorneys to both dependencies and termination cases, and recent law school graduates are unlikely to comply with the updated standards absent additional upfront training and experience.

³ OPD understands the Office of Civil Legal Aid (OCLA) Child Representation Program is facing similar recruitment problems. This decision package is consistent with OCLA’s separate request for funding in this area. OPD and OCLA are working together to combine efforts as appropriate.

⁴ The Gonzaga and Seattle University MOUs are attached at the end of this decision package.

placed three students in 10-week internships with OPD Parents Representation Program contractors. The proposed funding is the critical next step for OPD to partner in implementing meaningful clinical programs and expanding internship opportunities.

Fully describe and quantify expected impacts on state residents.

This decision package allows Washington law students to learn about a critically important area of law and the possibility of a public service legal career in the child welfare field. This decision package increases the number of attorneys qualified to fill OPD contract vacancies, which in turn ensures that indigent parents throughout Washington have effective attorneys representing them in child welfare proceedings.

Explain what alternatives were explored by the agency and why this was the best option chosen.

- The Parents Representation Program advertises open contracts nationally in an attempt to attract experienced child welfare attorneys from other states. This has had limited success.
- If OPD can't fill a Parents Representation Program contract in a particular county, contractors located in bordering counties may be asked to provide coverage. While addressing an immediate need, this approach is not a long-term solution. Conflicting court dockets in multiple counties can lead to a lack of attorney availability and complaints from the court and other system partners. Additionally, when an attorney is not routinely practicing in a county they are less familiar with the county's system partners as well as local services that the court may order their clients to complete. In addition, out-of-county attorneys are less accessible to clients who often have limited transportation resources.
- Currently, a few OPD contracts in larger counties include a multi-attorney public defense agency or law firm equipped to provide day-to-day mentorship, shadowing by more seasoned attorneys, and supervisor oversight to train new child welfare practitioners. But while public defender agencies and some law firms can mimic these components of an internship or clinical program, they are not experts in teaching the law and they cannot reach the same number of law students that would participate in a law school course, clinic, or internship program. Additionally, most Parents Representation Program contracts are for solo practicing attorneys, often in rural communities, which offer fewer opportunities for new attorneys to be supported in learning this specialized practice.

What are the consequences of not funding this request?

If this request is not funded, OPD's Parents Representation Program eventually may not be able to secure enough qualified attorneys to provide timely representation for indigent parents. This could leave parents unrepresented in violation of RCW 13.34.090(2) and RCW 2.70.020(1)(c).

Is this an expansion or alteration of a current program or service?

No.

Decision Package expenditure, FTE and revenue assumptions:

Staffing Assumptions

Job Title Classification	#s of FTE Round to Nearest Tenth				Workload Assumptions/Description
	FY 26	FY 27	FY 28	FY 29	
No OPD FTEs					

Use Standard Costs?

No.

If No, Explain Additional Costs	Round to Nearest \$1,000				Description/Assumptions
	FY 26	FY 27	FY 28	FY 29	
Contracts	\$750,000	\$750,000	\$750,000	\$750,000	OPD will contract with Washington law schools to develop academic courses, a child welfare clinical program, and internships to introduce law students to the specialized area of child welfare litigation. As contracts are negotiated projected costs will likely include goods and services, travel, etc. OPD administrative costs are estimated at \$37,500 each year.

How does the package relate to the Judicial Branch principal policy objectives?

Fair and Effective Administration of Justice

Effective legal counsel for indigent parents helps Washington courts fairly, efficiently and effectively administer justice in child welfare cases.

Accessibility

Well-trained Parents Representation Program attorneys are necessary to ensure that court systems are accessible to indigent parents involved in child welfare proceedings.

Access to Necessary Representation

Parents have a right to an attorney under RCW 13.34.090(2). The vast majority of parents are indigent and qualify for an OPD Parents Representation Program attorney. This decision package helps ensure that OPD will have a pipeline of qualified practitioners available to provide counsel to parents involved in child dependency and termination of parental rights cases.

Commitment to Effective Court Management

A lack of counsel can impact the effectiveness of court management.

How does the package impact equity in the state?

This decision package positively impacts rural communities, indigenous communities, communities of color and low-income communities. This decision package enables OPD to engage with law students from these communities and support their education and training in child welfare legal careers. This decision package has the potential to increase the number of OPD contract attorneys who better reflect the communities and clients they serve.

Describe how the agency conducted community outreach and engagement.

OPD's Parents Representation Program participated with OCLA's Children's Representation Program in meetings with all three Washington law schools. These agencies also met with the Attorney General's Office to discuss ways to incorporate educating law students in understanding the various roles of court partners in child welfare

cases. OPD met with existing Parents Representation Program attorney contractors and law students to gauge interest in internships. OPD also met with students from Heritage University participating in a law school pipeline program to explore opportunities in public defense including the Parents Representation Program.

Consider which target populations or communities would be disproportionately impacted by this proposal. Explain why and how these equity impacts will be mitigated.

This decision package does not create disproportionate impacts, and may help mitigate other longstanding systemic impacts.

Are there impacts to other governmental entities?

This decision package positively impacts the courts, the Department of Children, Youth and Families (DCYF) and the Attorney General’s Office because OPD’s Parents Representation Program is recognized for accelerating permanency in child welfare cases and reducing days that children spend in out-of-home care.⁵ This decision package also increases the number of law graduates with experience necessary to represent children under an OCLA contract or to represent DCYF as an assistant AG.

Stakeholder response:

The OPD Advisory Committee voted at its September 12, 2024 meeting to approve this decision package. Washington’s law schools are receptive to developing academic courses and clinical programs if OPD can be an active partner. Parents Representation Program contract attorneys consider this a good approach to develop qualified practitioners, and law students say they want to learn more about the child welfare legal practice.

Are there legal or administrative mandates that require this package to be funded?

This decision package helps ensure the right to effective assistance of counsel for parents under RCW 2.70.020(1) and RCW 13.34.090(2). This decision package helps ensure a sufficient pool of qualified attorneys to fill OPD contracts for parents representation and to implement the WSBA’s recent updates to family defense standards.

Does current law need to be changed to successfully implement this package?

Current law does not need to be changed to implement this decision package.

Are there impacts to state facilities?

There are no impacts to state facilities.

Are there other supporting materials that strengthen the case for this request?

- MOU with Gonzaga University.
See Attachment A: Gonzaga MOU
- MOU with Seattle University.
See Attachment B: Seattle University MOU
- Family defense standards, as approved September 8 by the WSBA Board of Governors.
See Attachment C: WSBA Family Defense Standards

⁵ *Evaluation of the impact of enhanced parental legal representation on the timing of permanency outcomes for children in foster care.* Mark E. Courtney and Jennifer L. Hook. *Children and Youth Services Review*, Vol. 34, Issue 7, pgs. 1337-1343 (2012).

Office of Public Defense
Policy Level – 1K – Law School Practicum

Are there information technology impacts?

No.

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Memorandum of Understanding

Between
Gonzaga University School of Law
And
Washington State Office of Civil and Legal Aid
And
Washington State Office of Public Defense

This Memorandum of Understanding ("MOU") sets forth the agreement between Gonzaga University School of Law ("Gonzaga Law"), the Washington State Office of Civil Legal Aid ("OCLA"), and the Washington State Office of Public Defense ("OPD") to develop academic programming on child and parent rights and justice, referred to as the Children and Parent Rights and Justice Initiative ("CRJI").

The Parties

Gonzaga Law is an ABA-accredited law school in Spokane, Washington whose mission is to provide excellent legal education informed by its humanistic, Jesuit, and Catholic traditions and values. As a Jesuit institution, Gonzaga Law is committed to diversity and strives to produce lawyers who are compassionate counselors serving the public good.

OCLA is an independent judicial branch agency responsible for administering and overseeing state funds for providing civil legal aid services to low-income Washingtonians. OCLA maintains a strong commitment to race equity and justice and strives to serve the needs of indigent persons in their access to civil justice. Its core values include equity and inclusion, leadership, transparency and accountability, and change and innovation.

OPD is an independent agency of the judicial branch that implements legal guarantees to counsel by providing indigent defense services throughout Washington State. Its mission is to uphold the rights of all people facing the loss of liberty or family by providing statewide leadership, administration, and support to the multidisciplinary public defense profession. Its values include justice, service, equity, and excellence.

Background

The parties to this MOU recognize the need for trained and qualified lawyers to work in the area of child and parent rights and justice, representing not only children and parents in dependency hearings but also working across other areas of law affecting the rights of children and parents, including but not limited to criminal, immigration, and family law. Children and parents have a right to their families. Children have a right to safety. Attorneys for both need to understand each others' roles either through education, or by practicing the representation of both.

As needs across the state – and nation – continue to grow, the parties recognize the challenges in recruiting, training, and retaining qualified lawyers competent to represent children and parents in dependency, termination, and related cases. The parties also recognize the imperative to develop a pipeline for the recruitment, training, and placement into practice of new attorneys

dedicated to providing trauma- and equity-informed representation of children and parents in these cases.

Purpose

The shortage of qualified lawyers, along with the commitment to serve our community and each party's mission, has led to this MOU for developing the CRJI at Gonzaga Law. The parties intend to work together to identify, develop, and place well-prepared law graduates, who support and are committed to diversity, into child welfare system practice to provide meaningful, equity-informed, and effective representation for children and parents upon graduation and passage of the bar. The parties will explore a concentration program for JD students, Continuing Legal Education ("CLE") opportunities for licensed attorneys, and post-graduate certificate offerings for JD holders looking to transition into child rights work. The parties also intend to explore clinical and/or experiential programs that focus on child and parent rights.

Project Goals and Timeline

CRJI will proceed in three phases: (1) launching a CRJI Concentration for JD students; (2) offering CRJI programming for JD holders, including CLE programming and a CRJI post-graduate Certificate, and (3) Clinical and/or Externship programs housed at Gonzaga Law furthering CRJI objectives.

The first phase is to establish a concentration in child and parent rights for JD students. This phase will include developing a sequence of coursework that covers the doctrinal, practical, and interpersonal skills necessary to work in child and parent rights upon graduation. In particular, the concentration will not only cover substantive knowledge, but also equity-, justice-, and trauma-responsive lawyering, including understanding child safety and the harm of separating families. It will also include experiential learning components for law students interested in careers serving the needs of children and families. This first phase will begin in Fall 2023 with developing a framework and initial proposal for the CRJI Concentration, with the goal of May 2026 as the date the first cohort of JD students will graduate with the CRJI Concentration.

The second phase seeks to develop programming for JD holders wishing to gain additional knowledge relevant to child and parent rights. This phase will include CLE events ideal for both practitioners working in child and parent rights and law students who are CRJI Concentration candidates. The goal for launching CLE programming is Fall 2024. Additionally, the second phase will explore a post-graduate certificate for JD holders wishing to gain the foundation for working in child and parent rights, with a goal of Fall 2027 for launching a post-graduate Certificate program.

The third phase will result in developing clinical and externship programming devoted to child and parent rights. This phase will include establishing and funding a Child and Parent Rights Clinic focusing on child and parent rights work and an externship program that targets agencies and private practitioners doing work in child and parent rights. Exploration of clinical and externship opportunities will begin in Spring 2024, with the goal of establishing a standing clinic and/or externship track for child and parent rights in Fall 2027.

Mutual Commitments Among the Parties

Gonzaga Law intends to offer and administer the CRJI Concentration, including staffing courses in the JD program and providing overall programmatic support. It also intends to host and facilitate CLE programs and a CRJI post-graduate Certificate. Lastly, Gonzaga Law intends to staff and host a standing clinic and/or externship track for child and parent rights as feasible.

OCLA and OPD intend to provide experiential learning opportunities, complementary substantive legal training, guidance on funding opportunities, and other support for the development and progressive evolution of all three CRJI phases. In particular, OCLA and OPD will collaborate with Gonzaga Law on identifying the core competencies and objectives of CRJI; finding qualified adjunct faculty, CLE speakers, and externship partners; promoting job placement and mentoring opportunities for students; and promoting and growing the program as needs evolve.

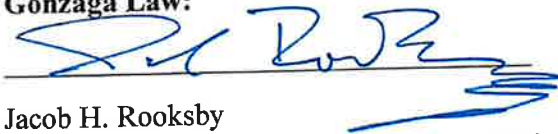
Amendment

Gonzaga Law, OCLA, and OPD will revisit and, if necessary, update this MOU annually in the first three years, in Fall 2024, Fall 2025, and Fall 2026. After the first three years, each party can request an amendment as needed.

Signatures

By signing below, each Party acknowledges that this MOU is a non-binding statement of the Parties' intent and understanding for future collaboration. Additionally, each Party agrees to act in good faith and to do what is reasonably within its power to give effect to the spirit of this MOU.

Gonzaga Law:

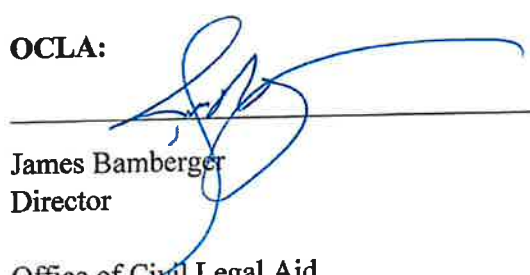


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Michele Young

From: Tracy Sims
Sent: Thursday, November 2, 2023 8:15 AM
To: Michele Young
Subject: MOU
Attachments: 2267_001.pdf

This is a MOU between Gonzaga School of Law, OCLA and OPD stating that these agencies will work together to develop academic programming on child and parent rights and justice. No money or binding commitments are mentioned. Does this need to be in JCTS or anything?

Tracy

Suggested Amendments to WSBA Standards for Indigent Defense

Markup:

DEFINITIONS

1. [Unchanged.]

2. Case – A “case” is a new court filing or action that names a person who is eligible for appointment of a public defense attorney; for example, an adult criminal charging instrument; a juvenile court offender or BECCA petition; a dependency, Title 13 guardianship, or termination of parental rights petition; a civil commitment petition; or an appeal. For additional explanation in relation to caseload capacity, refer to Standards 3.H and 3.I.

3. – 7. [Unchanged.]

8. Family Defense – Family defense is the practice of representing all people statutorily and constitutionally entitled to legal representation in cases under RCW 13.34, 13.36, and 13.38, et seq.

9. Family Defense Social Worker or Family Defense Social Service Worker – A family defense professional with a degree in Social Work (or allied field) who provides professional services to assist the attorney and to help meet the basic and complex needs of the client. At the discretion of the agency or firm, individuals without a degree in Social Work (or other field), but who can demonstrate lived or professional experience in the dependency system may serve the same role with the title of “Family Defense Social Service Worker.”

[Remaining definitions unchanged with the exception of renumbering to accommodate new definitions 8 and 9.]

STANDARD ONE: Compensation

[Unchanged.]

STANDARD TWO: Duties and Responsibilities of Counsel

[Unchanged.]

STANDARD THREE: Caseload Limits and Types of Cases

Standard:

3.A. – 3.G. [Unchanged.]

3.H. Definition of case.

A “case” is a new court filing or action that names a person who is eligible for appointment of a public defense attorney; for example, an adult criminal charging instrument; a juvenile court offender or BECCA petition; a dependency, Title 13 guardianship, or termination of parental rights petition; a civil commitment petition, or an appeal.

3.I. – 3.J. [Unchanged.]

3.K. Other Case Types.¹⁴

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

Family Defense: Family defense attorneys shall not represent more than 35 family defense clients or carry more than 40 open and active family defense cases at any given time. State agencies responsible for administering family defense representation may adopt case weighting standards not inconsistent with these standards. A supervising attorney assigned as co-counsel may count that client or case towards their total under this rule. ~~80 open dependency/termination of parental rights for parent and child(ren) representation per attorney per year.~~

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

3.L. – 3.N. [Unchanged.]

3.O. Implementation of Standards

¹⁴ The standards under this subsection, with the exception of family defense caseload standards, are under review. To provide guidance in the interim, the prior standards are included only until revisions are approved.

Standard 3 shall be implemented in phases and shall go into effect on July 2, 2025. The 2024 revisions to these Indigent Defense Standards shall be implemented on the following schedule:

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

150 Felonies per attorney per year;

300 Misdemeanor cases per attorney per year or, in jurisdictions that have not adopted a numerical case weighting system as described in this Standard, 400 cases per year;

250 Juvenile Offender cases per attorney per year.

Phase 1:

Beginning July 2, 2025, within the twelve months following, each full-time felony attorney shall be assigned cases constituting no more than 110 felony case credits and each full-time misdemeanor attorney shall be assigned cases constituting no more than 280 misdemeanor case credits. Beginning July 2, 2025, family defense attorneys shall not represent more than 45 family defense clients or carry more than 60 open and active cases at any given time.

Phase 2:

Beginning July 2, 2026, within the twelve months following, each full-time felony attorney shall be assigned cases constituting no more than 90 felony case credits and each full-time misdemeanor attorney shall be assigned cases constituting no more than 225 misdemeanor case credits. Beginning July 2, 2026, family defense attorneys shall not represent more than 35 family defense clients or carry more than 40 open and active cases at any given time.

Phase 3:

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

STANDARD FOUR: Responsibility for Expert Witnesses

Standard:

4.A. [Unchanged]

4.B. Mitigation Specialists, Social Workers

Mitigation specialists and social workers shall be made readily available to public defense attorneys to provide support, such as release plans, treatment services, housing, health care, and to develop dispositional and sentencing alternatives.

In public defense agencies, by July 3, 2028, a minimum of one full-time mitigation specialist or social worker shall be provided for every three full-time attorneys. Public defense agencies shall make meaningful progress towards this ratio prior to July 3, 2028.¹⁵ Attorneys representing clients in post-adjudication phases may require different resources. Public defense agencies that do not employ a sufficient number of mitigation specialists or social workers to meet this ratio shall enter into contracts with additional mitigation specialists or social workers to provide the same resource level.

For public defense agencies responsible for administering the funding for parent representation, by July 3, 2028, a minimum of one full-time family defense social worker or family defense social service worker shall be provided for every one full-time attorney representing parents in family defense proceedings, on a pro rata basis according to the size of the contract. Public defense agencies responsible for administering

¹⁵ Support staff necessary for effective representation “includes one supervisor for every ten attorneys; one investigator for every three attorneys; one social service caseworker for every three attorneys; one paralegal for every four felony attorneys; and one secretary for every four felony attorneys.” Bureau of Justice Assistance, United States Department of Justice’s *Keeping Defender Workloads Manageable*, 10 (2001), available at <https://www.ncjrs.gov/pdffiles1/bja/185632.pdf>. See also, National Association for Public Defense Policy Statement on Public Defense Staffing (May 2020), available at <https://publicdefenders.us/resources/policy-statement-on-public-defense-staffing/>.

1 the funding for parent’s defense shall make meaningful progress towards the ratio of one full-time family
2 defense social worker or family defense social service worker for every one full-time parent’s defense
3 attorney prior to July 3, 2028. Public defense agencies responsible for administering the funding for child
4 and youth representation shall ensure that adequate social work support services are made available to
5 meet the case and support needs of children and youth in family defense cases.

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

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

11 4.C. – 4.E. [Unchanged.]
12

13 **STANDARD FIVE – SEVEN** [Unchanged.]
14

15 **STANDARD EIGHT: Reports of Attorney Activity**

16 ***Standard:***

17 Jurisdictions and family defense contracting agencies shall require all public defense attorneys to use a
18 case-reporting and management information system that includes the number and types of assigned
19 cases, attorney hours, and case dispositions. Data from these systems should be routinely reported to
20 public defense administrators in a manner in which confidential, secret, and otherwise non-public
21 information ~~and secrets~~ are not disclosed. Consistent with Standard Eleven, public defense administrators
22 should review these reports on a regular basis to monitor compliance with these Standards.

23 For attorneys under contract, payment should be made monthly, or at times agreed to by the parties,
24 without regard to the number of cases closed in the period.
25

26 **STANDARD NINE: Training**

[Unchanged.]

STANDARD TEN: Supervision

Standard:

10.A. General Provisions.

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

10.B. Supervision for Family Defense Representation

Supervising Attorney Standard: Where a contracted provider is contracted for more than one full-time equivalent (FTE), they shall designate one full-time supervising attorney for every ten full-time family defense attorneys. A parttime supervising attorney should limit their caseload on a pro-rata basis. Supervisors may act as co-counsel in a limited number of cases to provide mentoring and training experience for their supervisees. To be a supervising attorney for family defense cases, the attorney must meet the criteria as set forth in Standard 14.C.4.a. Where a contracted provider is contracted for one FTE or less, the Office of Public Defense or the Office of Civil Legal Aid shall make available programs to support co-counsel opportunities, mentoring programs, or training experiences, as set forth in Standard 14.

STANDARD ELEVEN – STANDARD THIRTEEN [Unchanged.]

STANDARD FOURTEEN: Qualifications of Attorneys

Standard:

1 14.A. – 14.B. [unchanged]

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

3 1. – 3. [unchanged]

4 **4. Civil Cases – Trial Court Cases**

5 **a. ~~Representing Children and Youth in Dependency~~Family Defense Cases – Attorneys**
6 ~~representing children and youth in dependency matters should be familiar with expert~~
7 ~~services and treatment resources available in dependency cases.~~

8 i. **Youth –** Each lead counsel representing children and youth in a ~~dependency~~
9 family defense matter shall meet the following requirements:

10 i.1. Meet the minimum requirements set forth in Section 14.A₂ and

11 2. Abide, at minimum, by the requirements for training and experience in
12 the *Representation of Children and Youth in Dependency Cases Practice,*
13 *Caseload and Training Standards,* Washington Supreme Court
14 Commission on Children in Foster Care, at the Request of the Legislature
15 (Rev. Sept. 2022),¹⁶ established in accordance with Section 9, Chapter
16 210, Laws of 2021 and adopted by the Washington State Supreme Court
17 Commission on Children in Foster Care.;

18 ii. ~~Have knowledge, training, experience, and ability in communicating effectively~~
19 ~~with children, or have participated in at least one consultation per case either~~
20 ~~with a state Office of Civil Legal Aid resource attorney or other attorney qualified~~
21 ~~under this section; and~~

22
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26 ¹⁶ Available at: <https://www.courts.wa.gov/subsite/CommFC/docs/revised%20practice%20standards%20for%20representation%20of%20children%20and%20youth%20in%20dependency%20cases.pdf>.

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

4 **b.ii. Representing Parents and Respondents in Family Defense Cases in Dependency**

5 **Cases** – ~~Attorneys~~ Each counsel representing parents in a ~~dependency~~ family
6 defense matter ~~should be familiar with expert services and treatment resources~~
7 ~~available in dependency cases. Each lead counsel representing children and youth~~
8 ~~in a dependency matter shall meet the following requirements:~~

9 ~~i.~~ 1. Meet the minimum requirements as outlined in Section 14.A; and

10 ~~ii.~~ 2. Be familiar with the [American Bar Association Standards of Practice for](#)
11 [Attorneys Representing Parents in Abuse and Neglect Cases and the](#)
12 [Family Justice Initiative Attributes](#). ~~; and~~

13 ~~i. Attorneys representing parents in termination of parental rights cases shall have~~
14 ~~either six months' dependency experience or significant experience in handling~~
15 ~~complex litigation.~~

16 **iii. All Family Defense Attorneys:**

17 **1. Must complete an orientation training on dependency, guardianship,**
18 **and termination law.** Where a contracted provider has an identified
19 supervising attorney, the supervising attorney may provide this
20 orientation. Where a contracted provider does not have an identified
21 supervising attorney, this orientation shall be provided by the contracting
22 agency.

23 **2. Must have proficiency.** Where a contracted provider does not have a
24 supervising attorney, the contracting agency must perform an
25 assessment of proficiency and the need for any further orientation or
26 consultation before the contracted attorney can conduct any fact-finding

1 or evidentiary hearing on their own. To be assessed as proficient and able
2 to effectively fulfill the duties of representing families in dependency
3 courts, the contracting agency shall consider, at a minimum, the
4 following:

- 5 i. The number of years of experience doing complex litigation.
- 6 ii. The number of years of dependency experience.
- 7 iii. Whether the attorney has experience using experts in
8 dependency or termination proceedings.
- 9 iv. Education, certification, or other demonstrated proficiency in
10 child welfare.
- 11 v. Whether they have previously acted as lead counsel in any of the
12 following proceedings:

- 13 1. Shelter Care
- 14 2. Dependency Fact Finding
- 15 3. Title 13 Guardianship or
- 16 4. Termination Trial.

17 For attorneys who do not have a supervising attorney and who have been
18 assessed by a contracting agency as lacking proficiency to handle a fact-
19 finding or other evidentiary hearing on their own, the Office of Civil Legal
20 Aid and the Office of Public Defense shall provide a consultation program
21 for that attorney that:

- 22 i. Is consistent with RPCs regarding confidentiality, including but
23 not limited to RPC 1.6
- 24 ii. Is designed to assist attorneys new to family defense in
25 dependency, guardianship and termination cases, and

1 iii. Will allow consultants to provide technical assistance and
2 additional representation to parents or children assigned to the
3 attorney.

4 **be. Civil Commitment Cases** [Unchanged.]

5 **cd. Representing Clients Acquitted by Reason of Insanity** [Unchanged.]

6 **de. Sex Offender Commitment Cases** [Unchanged.]

7 **ef. Contempt of Court Cases** [Unchanged.]

8 **5. – 6.** [Unchanged.]

9
10 **STANDARD FIFTEEN – NINETEEN** [Unchanged.]

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DEFINITIONS

1. [Unchanged.]

2. Case – A “case” is a new court filing or action that names a person who is eligible for appointment of a public defense attorney; for example, an adult criminal charging instrument; a juvenile court offender or BECCA petition; a dependency, Title 13 guardianship, or termination of parental rights petition; a civil commitment petition; or an appeal. For additional explanation in relation to caseload capacity, refer to Standards 3.H and 3.I.

3. – 7. [Unchanged.]

8. Family Defense – Family defense is the practice of representing all people statutorily and constitutionally entitled to legal representation in cases under RCW 13.34, 13.36, and 13.38, et seq.

9. Family Defense Social Worker or Family Defense Social Service Worker – A family defense professional with a degree in Social Work (or allied field) who provides professional services to assist the attorney and to help meet the basic and complex needs of the client. At the discretion of the agency or firm, individuals without a degree in Social Work (or other field), but who can demonstrate lived or professional experience in the dependency system may serve the same role with the title of “Family Defense Social Service Worker.”

[Remaining definitions unchanged with the exception of renumbering to accommodate new definitions 8 and 9.]

STANDARD ONE: Compensation

[Unchanged.]

STANDARD TWO: Duties and Responsibilities of Counsel

[Unchanged.]

STANDARD THREE: Caseload Limits and Types of Cases

Standard:

1 3.A. – 3.G. [Unchanged.]

2 3.H. Definition of case.

3 A “case” is a new court filing or action that names a person who is eligible for appointment of a public
4 defense attorney; for example, an adult criminal charging instrument; a juvenile court offender or BECCA
5 petition; a dependency, Title 13 guardianship, or termination of parental rights petition; a civil
6 commitment petition, or an appeal.

7 3.I. – 3.J. [Unchanged.]

8 3.K. Other Case Types.¹⁷

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

13 Family Defense: Family defense attorneys shall not represent more than 35 family defense clients or carry
14 more than 40 open and active family defense cases at any given time. State agencies responsible for
15 administering family defense representation may adopt case weighting standards not inconsistent with
16 these standards. A supervising attorney assigned as co-counsel may count that client or case towards their
17 total under this rule.

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

19
20 3.L. – 3.N. [Unchanged.]

21
22 3.O. Implementation of Standards

23
24
25 ¹⁷ The standards under this subsection, with the exception of family defense caseload standards, are under
26 review. To provide guidance in the interim, the prior standards are included only until revisions are
approved.

Standard 3 shall be implemented in phases and shall go into effect on July 2, 2025. The 2024 revisions to these Indigent Defense Standards shall be implemented on the following schedule:

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

150 Felonies per attorney per year;

300 Misdemeanor cases per attorney per year or, in jurisdictions that have not adopted a numerical case weighting system as described in this Standard, 400 cases per year;

250 Juvenile Offender cases per attorney per year.

Phase 1:

Beginning July 2, 2025, within the twelve months following, each full-time felony attorney shall be assigned cases constituting no more than 110 felony case credits and each full-time misdemeanor attorney shall be assigned cases constituting no more than 280 misdemeanor case credits. Beginning July 2, 2025, family defense attorneys shall not represent more than 45 family defense clients or carry more than 60 open and active cases at any given time.

Phase 2:

Beginning July 2, 2026, within the twelve months following, each full-time felony attorney shall be assigned cases constituting no more than 90 felony case credits and each full-time misdemeanor attorney shall be assigned cases constituting no more than 225 misdemeanor case credits. Beginning July 2, 2026, family defense attorneys shall not represent more than 35 family defense clients or carry more than 40 open and active cases at any given time.

Phase 3:

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

STANDARD FOUR: Responsibility for Expert Witnesses

Standard:

4.A. [Unchanged]

4.B. Mitigation Specialists, Social Workers

Mitigation specialists and social workers shall be made readily available to public defense attorneys to provide support, such as release plans, treatment services, housing, health care, and to develop dispositional and sentencing alternatives.

In public defense agencies, by July 3, 2028, a minimum of one full-time mitigation specialist or social worker shall be provided for every three full-time attorneys. Public defense agencies shall make meaningful progress towards this ratio prior to July 3, 2028.¹⁸ Attorneys representing clients in post-adjudication phases may require different resources. Public defense agencies that do not employ a sufficient number of mitigation specialists or social workers to meet this ratio shall enter into contracts with additional mitigation specialists or social workers to provide the same resource level.

For public defense agencies responsible for administering the funding for parent representation, by July 3, 2028, a minimum of one full-time family defense social worker or family defense social service worker shall be provided for every one full-time attorney representing parents in family defense proceedings, on a pro rata basis according to the size of the contract. Public defense agencies responsible for administering

¹⁸ Support staff necessary for effective representation “includes one supervisor for every ten attorneys; one investigator for every three attorneys; one social service caseworker for every three attorneys; one paralegal for every four felony attorneys; and one secretary for every four felony attorneys.” Bureau of Justice Assistance, United States Department of Justice’s *Keeping Defender Workloads Manageable*, 10 (2001), available at <https://www.ncjrs.gov/pdffiles1/bja/185632.pdf>. See also, National Association for Public Defense Policy Statement on Public Defense Staffing (May 2020), available at <https://publicdefenders.us/resources/policy-statement-on-public-defense-staffing/>.

the funding for parent’s defense shall make meaningful progress towards the ratio of one full-time family defense social worker or family defense social service worker for every one full-time parent’s defense attorney prior to July 3, 2028. Public defense agencies responsible for administering the funding for child and youth representation shall ensure that adequate social work support services are made available to meet the case and support needs of children and youth in family defense cases.

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

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

4.C. – 4.E. [Unchanged.]

STANDARD FIVE – SEVEN [Unchanged.]

STANDARD EIGHT: Reports of Attorney Activity

Standard:

Jurisdictions and family defense contracting agencies shall require all public defense attorneys to use a case-reporting and management information system that includes the number and types of assigned cases, attorney hours, and case dispositions. Data from these systems should be routinely reported to public defense administrators in a manner in which confidential, secret, and otherwise non-public information are not disclosed. Consistent with Standard Eleven, public defense administrators should review these reports on a regular basis to monitor compliance with these Standards.

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

STANDARD NINE: Training

[Unchanged.]

STANDARD TEN: Supervision

Standard:

10.A. General Provisions.

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

10.B. Supervision for Family Defense Representation

Supervising Attorney Standard: Where a contracted provider is contracted for more than one full-time equivalent (FTE), they shall designate one full-time supervising attorney for every ten full-time family defense attorneys. A parttime supervising attorney should limit their caseload on a pro-rata basis. Supervisors may act as co-counsel in a limited number of cases to provide mentoring and training experience for their supervisees. To be a supervising attorney for family defense cases, the attorney must meet the criteria as set forth in Standard 14.C.4.a. Where a contracted provider is contracted for one FTE or less, the Office of Public Defense or the Office of Civil Legal Aid shall make available programs to support co-counsel opportunities, mentoring programs, or training experiences, as set forth in Standard 14.

STANDARD ELEVEN – STANDARD THIRTEEN [Unchanged.]

STANDARD FOURTEEN: Qualifications of Attorneys

Standard:

1 14.A. – 14.B. [unchanged]

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

3 1. – 3. [unchanged]

4 **4. Civil Cases – Trial Court Cases**

5 **a. Family Defense Cases –**

6 **i. Youth** – Each lead counsel representing children and youth in a family defense
7 matter shall meet the following requirements:

- 8 1. Meet the minimum requirements set forth in Section 14.A; and
- 9 2. Abide, at minimum, by the *Representation of Children and Youth in*
10 *Dependency Cases Practice, Caseload and Training Standards*, (Rev. Sept.
11 2022),¹⁹ established in accordance with Section 9, Chapter 210, Laws of
12 2021 and adopted by the Washington State Supreme Court Commission
13 on Children in Foster Care.

14 **ii. Parents and Respondents in Family Defense Cases** – Each counsel representing
15 parents in a family defense matter shall meet the following requirements:

- 16 1. Meet the minimum requirements as outlined in Section 14.A; and
- 17 2. Be familiar with the *American Bar Association Standards of Practice for*
18 *Attorneys Representing Parents in Abuse and Neglect Cases and the*
19 *Family Justice Initiative Attributes*.

20 **iii. All Family Defense Attorneys:**

- 21 **1. Must complete an orientation training on dependency, guardianship,**
22 **and termination law.** Where a contracted provider has an identified
23 supervising attorney, the supervising attorney may provide this
24

25 ¹⁹ Available at: <https://www.courts.wa.gov/subsite/CommFC/docs/revised%20practice%20standards%20for%20representation%20of%20children%20and%20youth%20in%20dependency%20cases.pdf>.

1 orientation. Where a contracted provider does not have an identified
2 supervising attorney, this orientation shall be provided by the contracting
3 agency.

4 **2. Must have proficiency.** Where a contracted provider does not have a
5 supervising attorney, the contracting agency must perform an
6 assessment of proficiency and the need for any further orientation or
7 consultation before the contracted attorney can conduct any fact-finding
8 or evidentiary hearing on their own. To be assessed as proficient and able
9 to effectively fulfill the duties of representing families in dependency
10 courts, the contracting agency shall consider, at a minimum, the
11 following:

- 12 i. The number of years of experience doing complex litigation.
- 13 ii. The number of years of dependency experience.
- 14 iii. Whether the attorney has experience using experts in
15 dependency or termination proceedings.
- 16 iv. Education, certification, or other demonstrated proficiency in
17 child welfare.
- 18 v. Whether they have previously acted as lead counsel in any of the
19 following proceedings:
 - 20 1. Shelter Care
 - 21 2. Dependency Fact Finding
 - 22 3. Title 13 Guardianship or
 - 23 4. Termination Trial.

24 For attorneys who do not have a supervising attorney and who have been
25 assessed by a contracting agency as lacking proficiency to handle a fact-
26 finding or other evidentiary hearing on their own, the Office of Civil Legal

Aid and the Office of Public Defense shall provide a consultation program
for that attorney that:

- i. Is consistent with RPCs regarding confidentiality, including but
not limited to RPC 1.6
- ii. Is designed to assist attorneys new to family defense in
dependency, guardianship and termination cases, and
- iii. Will allow consultants to provide technical assistance and
additional representation to parents or children assigned to the
attorney.

b. Civil Commitment Cases [Unchanged.]

c. Representing Clients Acquitted by Reason of Insanity [Unchanged.]

d. Sex Offender Commitment Cases [Unchanged.]

e. Contempt of Court Cases [Unchanged.]

5. – 6. [Unchanged.]

STANDARD FIFTEEN – NINETEEN [Unchanged.]