



King County

**Department of
PUBLIC
DEFENSE**

**DPD Staffing
Requirements for
Implementing Phase I of
the WBSA Standards for
Indigent Defense Services**

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DPD is one of the top public defense offices in the country

- ▶ Every year we recruit and attract the most talented and mission-driven law students from across the country.
- ▶ These law students are choosing DPD over PD agencies that are generally considered some of the best nationwide.
- ▶ We attract more experienced attorneys who are drawn to DPD due to our resources, caseload standards, and our mission to serve the most marginalized members of our community.
- ▶ This is a testament to not only DPD staff, but also the support of the County Council and the County Executive.

Purpose of New WSBA Caseload Standards

- ▶ Despite DPD's status as a top destination for public defenders nationally, we are still experiencing many of the same pains that other public defense offices are experiencing statewide.
- ▶ 19% attrition since start of 2023, which amounts to 59 lawyers, 20 of whom were experienced felony attorneys.
- ▶ 43.9% of the more than 8,382 felony cases from 2021-2023 were transferred from one attorney to another.
- ▶ Recognizing the statewide crisis in public defense, the Washington Supreme Court requested a bipartisan task force to develop new caseload standards based on the best available evidence (ABA/RAND meta study which incorporated studies from 17 states over 17 years).

New WSBA standards required DPD to change how it manages caseloads

Old system was based on credits

Staffing model was based on backwards-looking supplemental credits, where attorneys were awarded credits based on completed work. Every felony weighted as one credit.

New system based on case weighting

By contrast, the new staffing model gives attorneys all of the weighted credits up front before the work is complete. Attorneys receive 1-8 credits per case depending on seriousness of alleged offense.

Challenges with Adapting DPD's Staffing Model to the New WSBA Standards

- ▶ DPD is the first public defense office in the country to implement these new standards.
- ▶ PSB and DPD worked together to try to create a new staffing model that adjusted for the case weighting system.
- ▶ PSB and DPD realized there were some inefficiencies in this model that would eventually need to be corrected.
- ▶ Continued work on the model revealed that the alpha version (i.e., the model PSB used to develop the Executive's budget) did not properly account for 3 significant issues:
 - ▶ FMLA usage.
 - ▶ Rounding errors in FTE allocation.
 - ▶ Most significantly, the hidden costs of transferred cases.

Problems With the Alpha Model Used by PSB - FMLA

- ▶ Alpha model provided for, on average, 4 employees on FMLA at any given time.
- ▶ In fact, over the last 24 months, DPD has averaged 20 employees out on FMLA leave each month.
- ▶ As a result, the alpha model underestimated DPD's need for FMLA coverage to the tune of FTEs for 3 attorneys and 13 non-attorney professionals.

Problems With the Alpha Model Used by PSB - Rounding Errors

- ▶ As described in the Council central staff memo, partial FTEs for attorney positions are supposed to be rounded up.
 - ▶ This is because the caseload standards prohibit assigning an attorney cases beyond the caseload cap.
- ▶ However, in the Executive's proposed budget, FTE attorneys in DPD's felony units were not uniformly rounded up. This cost DPD 3 FTE attorneys.

Unit	Low/Mid Attys	Mixed Case Attys	Total	Roundup Total
ACA SEA	6.5	3.4	9.8	10.0
ACA KNT	5.4	4.0	9.5	10.0
NDD SEA	8.4	4.4	12.8	13.0
NDD KNT	6.0	4.5	10.5	11.0
SCRAP SEA	5.8	3.0	8.9	9.0
SCRAP KNT	3.6	2.7	6.3	7.0
TDA SEA	7.1	3.7	10.8	11.0
TDA KNT	3.0	2.2	5.3	6.0
Total	45.9	27.9	73.9	77.0
Total SEA			42.3	
Total KNT			31.5	
		Roundup Total		74.0

Biggest Problem With the Alpha Model Used by PSB - Felony Case Transfers

- ▶ Alpha model did not accurately capture the true costs of felony case transfers.
- ▶ Under the old supplemental credit model, case transfers were built into the staffing model because attorneys were credited after the work was completed.
- ▶ By contrast, under the case weighting model, all of the case credits are given to a lawyer up front and we cannot recover any of those credits after they leave felony practice.

Flawed Assumptions About Transfers in the Alpha Model

- ▶ Assumes 4.45% inefficiency in transferring cases.
- ▶ Assumes every case will be transferred almost immediately.
- ▶ Assumes the new attorney will be able to pick up exactly where the prior lawyer left off with no lost effort.
 - ▶ Review discovery, meet with client, review prior work, etc.
- ▶ Assumes the departing lawyer will be replaced by an equally qualified attorney.
- ▶ These assumptions led to PSB's conclusion that DPD only requires 74 felony attorneys to comply with Phase I of the WSBA standards beginning on July 1, 2025.

Actual Cost of Transferred Cases

- ▶ Analysis of 8,382 felony cases from 2021-2023 showed the following:
 - ▶ Transferred cases take, on average, about 59% more work to complete.
 - ▶ For the most serious cases, it takes almost twice as much time to complete a case once transferred.
- ▶ None of this extra work was budgeted for in PSB's model.

Case Weight Tier	Not Transferred	NT: Average Hours	Transferred	T: Average Hours	Transfer Rate	Average Hour Difference Ratio
Felony-Murder	73	96.2	54	277.8	42.5%	2.89
Felony-Sex	244	34.4	194	78.0	44.3%	2.27
Felony-High	225	33.9	194	58.7	46.3%	1.73
Felony-Mid	1482	17.5	904	25.3	37.9%	1.45
Felony-Low	2678	13.7	2334	21.2	46.6%	1.55

Time to Resolution: Another Real Cost of Transferred Cases

- ▶ Transferred cases have costs beyond the additional work required by DPD staff.
- ▶ On average, it takes twice as long to resolve a transferred case.
- ▶ As a result of the hidden costs associated with transferred cases, DPD's modelling shows that the department needs 104 felony attorneys to implement Phase 1 instead of the 74 suggested by PSB's model.

Case Weight Tier	Non-Transferred (in days)	Transferred (in days)
Felony-Murder	443	1113
Felony-Sex	370	940
Felony-High	370	777
Felony-Mid	291	546
Felony-Low	330	587

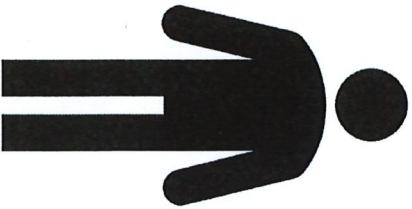
Example of a Homicide Case Transfer

7 Credits

+

3.5 Credits

= 10.5 Credits



Aaron



Beatrice

- ▶ Aaron is a felony attorney with a homicide case he has not resolved.
- ▶ Aaron quits after finishing half the case.
- ▶ Beatrice is a felony attorney taking over the unfinished homicide case.
- ▶ Beatrice has about half the case left to do and must receive partial credit. WSB Standard 3.1(3)(a).

The alpha PSB Model caps the credit allocation to a maximum of 7 credits, but we have to budget for 10.5 credits of capacity.

Solution: DPD's Supplemental Budget Ask

Staff Category	Executive's Proposed Budget	Additional FTEs Needed (Costs)	New Model Projections
Attorneys	7	20 (\$3.4M)	27
Non-Attorney Professionals	7	15 (\$1.9M)	22
3L Attorneys (Oct. 2025)	15	25 (\$1.1M)	40

DPD's Biggest Concern if Understaffed

- ▶ Going into July 1, 2025, DPD's ability to take on new felony cases will boil down to a math problem.
- ▶ Felony attorneys will be capped at 110 credits for the entire year, once they hit that maximum, they cannot take any more cases.
- ▶ Once we run out of attorneys who have capacity to take on new cases, we have no choice but to refuse new case assignments.
- ▶ The ACLU's recent lawsuit in Yakima is a cautionary tale.

A conservative estimate: the Beta Model

- ▶ We currently are applying our modeling based mostly on 2023 filing and assignment rates, assuming 5,437 felony criminal filings.
 - ▶ If filings decrease, we will not require as many additional FTEs.
 - ▶ If filings increase or the mix of cases shifts toward more serious cases, we will likely be back at omnibus requesting additional FTE authority.
- ▶ PAO recently suggested there is a current trend towards more serious cases.
 - ▶ More serious cases count more in the case weight model. For example, a low felony case is weighted at 1 credit, and a murder case is weighted at 7 credits.
 - ▶ PAO recently reported that more serious offenses have been charged. King County Budget and Fiscal Management Committee Meeting on 9.25.24 starting at 42:50.
 - ▶ More referrals to PAO are expected. PAO recently reported that law enforcement agencies have been able to recruit more officers through training programs and they anticipate an increase in referrals. King County Budget and Fiscal Management Committee Meeting on 9.25.24 starting at 44:52.

Two Levers

Increase
DPD Staff

Decrease
filings

