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To Whom It May Concern:

I am writing this letter in opposition to the proposed rule changes regarding the setting of caseload limits on misdemeanor cases.

My firm provides defense services to the City Of Yakima, which is located in Eastern Washington. Let me first state that I am not against the establishing of standards, but the proposal is unnecessary and too extreme. Since my firm has taken over the defense services several years ago, we have made great strides in the public defender system, and the proposal would severely undermine those efforts.

Yakima, as many Cities and Counties are in Eastern Washington, is largely an agricultural community. As such, the City of Yakima does not have a huge revenue stream—even less so after many retailers pulled out of the City limits. The last several years have seen an ever increasing drop in revenue. Due to that, every year more services in the City get cut, including emergency services. For example, the Yakima Court clerk's office, due to budget constraints is open for the public approximately 3-4 hours per day only.

Given the available revenue, the current proposal regarding caseload limits would be unmanageable to the City of Yakima. I would estimate the current proposal would elevate the cost of defense services from approximately $500,000 to $2,000,000 or more. That is because Yakima, although it does not have a lot of revenue, has one of the highest crime rates based on its population, in Washington. Yakima could simply not handle that expense. The proponents of the rule changes have no answer as to how some areas could deal with the expense—they simply state that Seattle can do it, a City that has a huge revenue stream.

A lot of jurisdictions similarly situated would have similar issues. That would result in a negative impact on indigent defense services. First, it is unclear whether the City of Yakima could afford to comply with the rule. As stated, I do not see how that can possibly happen given the limited revenue, and the many cuts in services that Yakima has already made to attempt to balance its budget. If that happens, it is entirely possible that the Courts would be forced to simply use its power to appoint local attorneys to take cases pro bono. That would be met with a lot of discord.

Second, even if there were the ability to handle the rule change, then it would be impossible to attract enough attorneys to provide defense services, much less any qualified attorneys. Last time, the City

requested proposals for a defender, there was one applicant. With this rule change, the City would need to attract dozens of attorneys. Even if it were possible to hire that many attorneys, any attorney would be using the job as a "stepping stone," until he or she receives a higher paying job elsewhere. That is partly because the rule also prohibits any attorney who does public defense services from doing any private work at all. It is unclear why an attorney who does defense services would not be able to utilize more of their time and do private work as well. Any constitutional issues aside, it seems inherently unfair to allow an attorney to handle as many private cases as they want (and work 80+ hours a week if they choose), but another attorney handling public defense work is limited to 25 misdemeanor cases per month (and a limit of 40 hours per week).

Furthermore, the rule itself does not make any sense, and does not adequately reflect how much time is necessary on any given case. The rule limits misdemeanor cases to 300 per year per full time attorney, without any regards to that attorney's experience. More experienced attorneys can presumably handle more of a caseload. 300 cases per year equates to 25 cases per month for a full time attorney—some of those cases can simply be individuals charged with driving without a license. Given that, it is unclear where a full time attorney would even be spending their time, with that little of a caseload. It seems extremely odd that a felony attorney would be able to handle 150 serious felonies per year, potentially with many witnesses and investigation to be done, while an attorney handling misdemeanor cases, many of which involve simple factual issues, is limited to 300 cases. That does not reflect the realities of misdemeanor practice. Because of the increased time spent on felony cases, it is apparent that, at any given time, a felony attorney will be handling more cases then an attorney handling misdemeanor cases.

As stated earlier, I do not have any issues with taking strides in increasing the level of representation of indigent defendants, and in fact, my firm has done so consistently, but the rule change would have an opposite effect and simply goes too far.

Please contact me if there are any questions.

Sincerely,

Troy J. Lee