From: OFFICE RECEPTIONIST, CLERK
To: Martinez, Jacquelynn
Subject: FW: Criminal caseload standards
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From: Beattie, Brian <Brian.Beattie@kingcounty.gov>
Sent: Monday, October 21, 2024 5:28 PM
To: OFFICE RECEPTIONIST, CLERK <SUPREME@COURTS.WA.GOV>
Subject: Re: Criminal caseload standards

Justices of the Washington State Supreme Court,

I am writing in support of the proposed court rule amendments to codify the WSBA's recently passed criminal caseload standards for public defenders. The WSBA Board of Governors approved these long-overdue updates to the maximum workload public defenders can reasonably be expected to carry for a simple and obvious reason: they recognized the status quo has required public defenders like me to compromise our ethical obligations to our clients.

This is not an academic matter – unsustainable workloads are driving my experienced colleagues out of public defense. Those of us who remain are forced to take on more and more cases carrying potential life-altering consequences for our clients.

Since graduating Seattle University School of Law and passing the bar, I have worked 20 years as a public defense attorney. Through many journeys, I have stretched myself beyond any boundaries I thought possible in the eager first days of wondering how my legal career would turn out. I have been privileged with performing high stakes' trial work before juries, connecting in a visceral way with the rights our Constitutions enshrine. At times I have strained and sweated and cried in representing the underprivileged, however they might find themselves that way. Some are ostracized by their own actions, but many are discarded simply by a system that builds in favorability not just for those with better intellects and social connections, but also those simply with more money, regardless of whether that mechanism of privilege was obtained through unsavory, unethical, or just selfish behavior. And this disproportionately affects persons of color as this Court has seen time and time again when data is collected on those who have and those who have not.

I have lost sleep, and I have reached exhilarating personal heights. Many have observed my "personal" life does not get enough attention. On a personal note, I have been unable to sustain

long-term romantic relationships, and I have minimal immediate family life as a result. I do find other outlets to find meaning to justify this career path, but the path has sacrificed some commonly expected “mainstream” or “middle class” milestones. I would not expect many competitive-minded lawyers to take this path for the longer term. That means the more serious cases are not being properly attended to by experienced lawyers, resulting in more systemic costs for the underprivileged.

The number of assigned serious cases is unsustainable. On a mechanical level, the cases have become more complex over the last 50 years due to evolving technologies. In our county, more serious cases are being filed on while less serious are being culled out due to the pandemic backlog and conserving prosecutorial resources. Discovery has become more voluminous though body-cam video and pervasive surveillance. Discovery methods are not always getting information to defense in a timely manner, either due to antiquated electronic/video delivery systems or sometimes mismanagement. Simply put, the 1 felony case of 1974 does not equal the 1 felony case of 2024.

There is a higher incidence of mental health crisis in the State as demonstrated by multiple statistical reports by Western State Hospital in the rise of defendants not competent to stand trial when recently defending delays in transport for competency restoration. And processing mental health problems through the traditional legal system can be especially taxing on public defenders. While some cases go more easily when no one is contesting the matter, representing just one mentally ill defendant that has severe mental health issues yet found to be competent can require many painful and traumatic hours that are not properly accounted for under the current credit system. And many public defenders must represent multiple “high conflict” personality-type clients at once. Such clients many times face decades and even life in prison.

I know you have heard from institutional actors claiming these standards are impractical or would be prohibitively expensive. However, the issue that the WSBA delegation has reported on is a constitutional value judgment, less so an economic value judgment. When the state legislature did not fully fund K-12 education, this Court in *McCleary, et al v. State of Washington* enforced a value judgment rather than an economic one, even when the cost was estimated in the billions. Similarly, this Court should honor the WSBA Board of Governors’ and workgroup’ recommendation on this issue.

The U.S. Supreme Court did not condition the right to an attorney on a government’s ability to afford one when it decided *Gideon v. Wainright*. They rightly placed the obligation to find funding to pay for a public defender at public expense on the government seeking to take away an indigent person’s liberty. This decision obviously cost local governments many billions of dollars by this point in our history. But the U.S. Supreme Court made a constitutional value judgment rather than an economic one. Without meaningful caseload relief, the underprivileged are being denied a meaningful right to effective assistance of counsel.

Without the relief that these caseloads would bring, the quality of the representation I can provide to people who do not have the ability to choose their own lawyer will continue to get worse. At some point, I will reach the same conclusion as many of my former colleagues: I can no longer practice in public defense while claiming to honor my ethical obligations to my clients.

I urge you to adopt the proposed court rules that would codify the WSBA's caseload standards for public defenders so the right enshrined in *Gideon*.

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