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From: Bray, David <David.Bray@kingcounty.gov>
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Good morning,

My name is David Bray and I currently supervise the Seattle felony unit at King County Public Defense – SCRAP Division. I am writing in support of the proposed caseload standards approved by WSBA.

I have been a public defender for a decade. In my time working in this field, I have seen a staggering amount of qualified and incredible attorneys leave this work because of the sheer difficulty and volume of cases we face. Those that seem most likely to leave are the ones we need the most – attorneys qualified to handle Class A felonies, homicides, sex cases, and cases where defendants are facing life without parole. This is not simply because the work is emotionally taxing or the pressures of representing someone who may be locked up for many years is too much to handle. Those pressure points have always been something public defenders have had to deal with, and many are able to deal with. The reason qualified attorneys are leaving is because Courts, the bar, executives, and public defender staffing models have had an expectation that cases function as though they did when the old standards came into place.

In reality, cases nowadays have voluminous discovery on even lower-level felonies. When stolen vehicle cases have hours of body cam footage to watch and simple assaults are investigated through cell location data and other forensics, public defenders are drowning in work. Those that handle serious and complex cases see their caseloads balloon as they attempt to digest what is required of them. Most of us have little opportunity to dedicate even a couple of hours at any given time to focus on an individual matter as we are constantly triaging. Instead, we piecemeal review of discovery on important cases and write briefs in batches.

When I first started, a colleague of mine told me that we are all doing our best, but we're "per se ineffective" because of how much we have on our plates at any given moment. Since I first heard

that, the practice of public defense has become more difficult.

Younger attorneys are seeing more experienced attorneys leave at alarming rates and rightfully question how sustainable of a career this is. Much leave before they handle the most serious cases, resulting in a vacuum at the top of the office where the best attorneys should be. In the end, the Clients we represent, some of the most vulnerable people in society, bear the brunt.

While this Court will undoubtedly hear about the projected costs of these standards and the impact they will have on the system, it is important to put those criticisms into context. Executives undoubtedly have a lot to deal with from a budgeting perspective, but many of the line items they budget for do not have constitutional implications. Here, the Clients public defenders represent are not just guaranteed attorneys, but effective attorneys. The hours public defenders and support staff spend on particular cases is not enough. The RAND study has shown this through rigorous analysis. They are not simply figures pulled out of a hat. By passing the proposed standards, defendants would finally have public defenders working in a way that can truly balance the scales of justice, not merely pay lip service to it. Historically, our nation has been far too comfortable with the power prosecutors and law enforcement yield severely outweighing that of defense.

The costs that will come with this plan can be balanced out through other means. Prosecutors can use discretion to charge less. Evidence-based diversion programs can be implemented at a higher rate. Bail reform can cut down on the spending on incarcerated individuals. However, in the end, that should not be the calculus for this body. The Supreme Court should be more concerned with the rights of defendants than the costs associated with making sure those Constitutional rights are protected.

I am proud to be a public defender, but it is painful to see those who sincerely want to do this work leave because it is too much. It is horrible to watch mistakes be made that could be prevented because of how burdensome the nature of this job is. Our society deserves better. Defendants deserve better. If we ever want to incentivize effective and dedicated attorneys to work in this field, change must happen. It must happen now. Please approve the new standards for indigent defense.

Respectfully,

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