From: OFFICE RECEPTIONIST, CLERK
To: Martinez, Jacquelynn
Subject: FW: Public Comment re: Standards for Indigent Defense
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From: Martin, Dennis <denmartin@kingcounty.gov>
Sent: Tuesday, September 24, 2024 4:32 PM
To: OFFICE RECEPTIONIST, CLERK <SUPREME@COURTS.WA.GOV>
Subject: Public Comment re: Standards for Indigent Defense

You should adopt the Proposed Standards for Indigent Defense. There are many reasons to do so, but I want to emphasize and expand on the reason identified by Retired Judge Ronald Kessler, among others: time to trial.

CrR 3.3 tells defendants who are detained in jail that they'll get a trial within 60 days of their arraignment, but they almost never do. As Judge Kessler observes, a big reason for this discrepancy is that discovery has become both more voluminous and more technically complicated. Still, if public defenders had manageable caseloads, they could work through that discovery within CrR 3.3's limits, or something close to them. But when public defenders have 80 or so of these cases at any time, and 150 a year, they can't.

What this means is that defendants who are presumed innocent sit in jail as credit for time served accrues and pressure mounts: the pressure of brutal conditions within even the best county jails, of isolation from their families and friends, of powerlessness at being unable to pay bail and unable to do anything to get their cases to trial sooner. Defendants who otherwise would've fought their cases at trial are effectively denied their constitutional rights as they are slowly driven toward guilty pleas.

This is not conjecture. To give one example, I recently represented a man accused of multiple Class A felonies. By the time I was assigned to his case, he had served almost 2.5 years in jail. I was his fourth attorney (as others have pointed out, the current caseload standards make it almost inevitable that defendants charged with serious crimes will cycle through multiple attorneys, with each change of attorney pushing trial farther away). The State's case against my client had serious holes, and my client adamantly maintained his innocence. But he had also been sitting in jail for a long time. So when the State—recognizing the weaknesses in its case—offered my client close to credit for time served, in exchange for his pleading guilty to multiple felonies, he took the deal.

As anyone who has practiced indigent defense knows, this pattern recurs daily: defendants who would've gone to trial, if they could've gotten there quickly, instead plead guilty to get out of jail. And it's almost exclusively poor people with court-appointed attorneys who suffer this experience, because the defendants who can afford private attorneys can often also afford to post bail. The current indigent-defense standards thereby exacerbate an already two-tiered system of justice: wealthy defendants can realistically exercise their constitutional trial rights, while poor defendants are effectively denied those rights.

This is just one way that time-to-trial delays harm defendants. Cycling through multiple attorneys over the life of a case, as attorneys burn out and quit or rotate to less demanding jobs, makes it harder for defendants to trust their attorneys. So too do requests by defense attorneys to continue cases over their clients' objections, because they aren't able to provide effective assistance within the limits of CrR 3.3. These delays likewise erode the confidence of victims and the public in the criminal-legal system.

It sucks to watch to watch my colleagues burn out of a job that they love and that they're good at. Reasonable minds can differ, I guess, about the extent to which that burn out is this Court's problem. But because the current standards also compromise defendants' constitutional rights, this Court is required to act. You should adopt the proposed changes.

Sincerely,

Dennis Martin
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King County Department of Public Defense