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Subject: FW: Support the Proposed Standards for Indigent Defense
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From: Gibbs, Devon <Devon.Gibbs@kingcounty.gov>
Sent: Wednesday, September 25, 2024 10:27 AM
To: OFFICE RECEPTIONIST, CLERK <SUPREME@COURTS.WA.GOV>
Subject: Support the Proposed Standards for Indigent Defense

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Dear Justices of the Washington State Supreme Court,

I am writing to strongly urge you to adopt the proposed court rule to codify WSBA's Criminal Caseload Standards for Public Defenders. These caseload standards are essential to protecting and improving the rights of not just the most marginalized and vulnerable but everyone in Washington.

I have been working as an attorney in public defense for the past 23 years. I came to this profession because it was my dream to help people. Often, my colleagues and I instead feel like cogs in a machine, only a necessary part of an incarceration system cutting against the very reason we entered into this profession. Reducing attorneys down to a symbolic check mark that someone was provided assistance of counsel. I often discuss with my colleagues of when the burnout will catch up to us. When will I have the courage to turn my back on my current clients because it is no longer ethical to pretend I can keep up. I talk to my partner about the choice to have children hinging on finding a new career path.

At the very same time – I hear lip service paid countless times to the unsustainable, unconscionable, and impossible caseloads thrust on public defenders. It echoes in trial courts throats as my overwhelmed colleagues are quitting in records of numbers, unwilling to pretend any longer they their caseloads allow them to provide effective assistance. While demoralizing for fellow public defenders who remain, it additionally pushes these aging cases onto those same public defenders who often must start anew.

Each of those cases are a client that is hurt by the current caseloads. Excessive caseloads are proscribed by ethics rules because they inevitably cause harm. Overloaded attorneys cannot give the attention needed to each client, cannot investigate in a timely manner, and cannot file the motions they should. Instead they must triage cases making a choice on which to focus on. A justice system burdened by triage risks unreliability, deny all people who rely on it – victims, witnesses, defendants, and their families and communities – efficient, equal and accurate justice.

The RAND study's empirical results provide evidence to support actions against public defenders' licenses if we don't adhere to an ethical caseload. Failure to pass these new standards puts public defenders in the impossible position of continuing to take cases in excess of what we can handle in spite of empirical evidence showing that taking such cases is unethical. The ABA has recommended attorneys decline cases to maintain a workload they can handle.

I know that certain counties, politicians, prosecutors, and judges are concerned about the financial impact of these new standards. However, a fair and just criminal justice system requires that everyone accused of a crime receive due process. These expenses cannot justify continuing a status quo that makes a mockery out my client's rights. Just because we have undervalued public defense for decades and thrust the cost of the behavioral health crisis onto the criminal justice does not mean we should or need to continue undervaluing it.

In addition, I believe that with the proposed caseload standards in place cases will proceed quicker to trial or disposition of cases. Currently, even lower-level felony cases wane for months or at times years while attorneys are forced to prioritize the potentially more serious case or the client who remains in custody. These cases continue to strain the system in a myriad of ways.

I am currently in Sex Offender Commitment Unit with an open caseload at capacity.

In sum, I ask the Court to adopt the proposed caseload standards. I ask for this on behalf of my clients wanning in custody, I ask for this on behalf of my colleagues quitting in droves, and I ask for the court to consider this for me – an attorney, 23 years into my career, hoping that I will be able to sustain for another 25+ years.

Thank you for considering,

Devon Gibbs

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