

From: [OFFICE RECEPTIONIST, CLERK](#)
To: [Martinez, Jacquelynn](#)
Subject: FW: In Support of the Proposed Standards for Indigent Defense
Date: Monday, October 21, 2024 8:15:56 AM

From: Benjamin, Emma <ebenjamin@kingcounty.gov>
Sent: Saturday, October 19, 2024 4:53 PM
To: OFFICE RECEPTIONIST, CLERK <SUPREME@COURTS.WA.GOV>
Subject: In Support of the Proposed Standards for Indigent Defense

You don't often get email from ebenjamin@kingcounty.gov. [Learn why this is important](#)
External Email Warning! This email has originated from outside of the Washington State Courts Network. Do not click links or open attachments unless you recognize the sender, are expecting the email, and know the content is safe. If a link sends you to a website where you are asked to validate using your Account and Password, **DO NOT DO SO!** Instead, report the incident.

Justices of the Washington State Supreme Court,

I write in fervent support of the proposed amendments to the standards for indigent defense. I am proud to be a public defender for King County; December will make four years for me. After graduating from Williams College and completing two years of AmeriCorps service, I attended Northeastern as a Public Interest Law Scholar, knowing that I wanted to represent those who cannot afford counsel. I am aware of the misconception that public defenders are the attorneys who were unqualified for more “prestigious” positions. This could not be further from the truth. Public defense was an intensely competitive field coming out of law school. Most of my colleagues come from top tier law schools, and all of us do this work because we believe in our clients’ right to liberty and dignity, and that each of our clients is more than the worst thing they have done. Every day that we stay, we choose to forego countless other jobs that would compensate us more in proportion to the time and effort we expend. But we are not asking for more pay. We are asking for humane, sustainable caseloads, because we are at a breaking point. We are drowning.

Yesterday, I left felony practice after two years. On Monday I will begin a “rest” rotation of sorts, wherein I will handle a daily calendar simply as attorney of the day for the Department of Public Defense. I requested this change because my felony caseload was jeopardizing my mental health, and I was wholly unable to provide constitutionally compliant representation without sacrificing my personal relationships and my overall well-being. Before I left, I had a caseload of 86 felonies. Mostly low-to-mid-range, with some Class A felonies, including homicides. Nearly every day, I spend the majority of my time in court or at the jail. I do not stop for lunch; sometimes my lunch is a granola bar eaten in the car. During the day I miss countless calls and messages, many from clients who are in custody and deserve more of my time. Because every moment of my day is booked, I use my nights to watch the sometimes 20+ hours of body worn video in a case or review the over 6,000 pages of discovery. For the last two months, almost without fail, I have opened my computer back

up when I got home to continue working until I go to sleep. This has driven me to a breaking point. Under these conditions, I am not the attorney that my clients deserve. I am not the partner that my fiancé deserves. I cannot possibly imagine having a family and staying in this job with the caseloads as they currently stand. This situation is untenable, and had I not been given this new position, I would have left. In the last two months, our office has lost three Class-A qualified attorneys and will soon be losing two more. I implore you to consider the significance of these losses: with each attorney that leaves, an entire caseload is redistributed to other, overworked attorneys. Many of the clients whose cases are passed off have been waiting for years for a trial, sometimes in custody. Snowball effect is an understatement to describe the public defense crisis in Washington. There is no time; we need to act now.

I have read a number of comments voicing opposition to the proposed changes based on budgetary concerns and a supposed need for more time and research. I do not find this convincing; the research has been done. The 2023 RAND study gave us irrefutable evidence that our state is not meeting the minimum standards necessary to protect the rights of people accused in Washington. The current standards have not been updated in decades. And the proposed new standards were not made overnight—they are the product of years of empirical research. We don't need a task force, we don't need more time for additional studies. Indeed, it is painfully clear that we cannot put this off longer. We will continue to lose people. I understand that budget is perhaps the biggest concern here. I do not wish to minimize this as a hurdle moving forward, but it is a hurdle that we must get over together. *Gideon v. Wainwright* contains no footnote or caveat for consideration of budgetary logistics. The government has the burden of ensuring that a defendant's right to effective counsel is met, period, and under the current system, we are failing.

The other main bucket of concern seems to be one I would largely describe as fearmongering, and it comes from a belief that approving these new standards will somehow make our communities less safe. I cannot agree with this either. With overworked and ineffective attorneys, innocent people are convicted. Innocent people languish in jail. Cases take years to resolve; victims of crime wait for a resolution. Continuing to overburden public defenders does not somehow keep our community safe. And finally, I have seen a lot of concern about our ability to find the attorneys to fill the positions that the standards call for. We will find them. We can incentivize other members of the bar to take on cases. We will slowly begin retaining the people we already have by making this practice more humane. And I genuinely believe that some people who have left may come back, because I doubt they have stopped loving the work, they just could not sustain it anymore. In sum, on the topic of public safety, I believe that continuing to hemorrhage attorneys will only lead to a complete collapse of the system, which makes none of us safer.

In my first week of this job, someone said to me, "this job is designed to break you." I think about that often, and I have come to agree with it. We are pleading with you to pass these carefully thought-out standards, because we cannot delay this anymore. Thank you for your time.

Emma Benjamin (she/her)

Attorney

Northwest Defenders Division

King County Department of Public Defense

710 Second Ave., Suite 250
Seattle, WA 98104
P: 206.477.2914
F: 206.674.4702