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To: [Martinez, Jacquelyn](#)
Subject: FW: Comment for Order Number 25700-A-1568, proposed changes to caseload standards
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From: Jason Walker <jeyman@gmail.com>
Sent: Thursday, October 31, 2024 8:37 AM
To: OFFICE RECEPTIONIST, CLERK <SUPREME@COURTS.WA.GOV>
Subject: Comment for Order Number 25700-A-1568, proposed changes to caseload standards

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Justices of the Washington Supreme Court:

I urge you to reject the proposed amendments to the standards for indigent defense. These caseload standards will not address the most serious issues facing public defense today, but are for the benefit of one area of the state which does not need this change to the rule.

Recent news coverage (e.g. Seattle Times, WSBA Bar News, Tri-City Herald) has stated that "public defense is in crisis" in Washington state. This is true in rural counties, especially in the eastern part of the state far from Washington's law schools. Yakima, Benton and Franklin counties especially suffer from an absolute lack of attorneys, which means a lack of attorneys willing to represent indigent defendants.

Based on information from the U.S. Census Bureau, WSBA and the caseloads of the Washington Courts, in Yakima County there is roughly one attorney for every 584 residents. In Benton and Franklin counties, combined, there is one attorney for every 669 residents. There is one attorney for every 4 1/2 adult felonies filed in Yakima Superior Court. There is one attorney for every 3.68 felonies in the Benton/Franklin judicial circuit.

This problem does not exist in the urban counties of the state bordering the Puget Sound. In King County, where 54% of the licensed Washington attorneys are, there is one attorney for every 151 residents. Using data from the prosecutor's data dashboard shows there are more than three attorneys for every Superior Court criminal case filed in King County Superior Court. Although there are fewer attorneys per capita in the surrounding counties, the numbers are still much higher than in the

rural parts of the state.

I point out these statistics because the most vocal support for the proposed amendment appears to come from King County. Rural counties have been indifferent or even opposed to these new caseload standards. That is because they realize that this proposed solution will not solve their attorney shortage. Lower caseloads will not cause attorneys to flock to rural areas. Rural counties have been suffering a "brain drain" for decades. 20 years ago the New York Times wrote about the lack of attorneys in South Dakota. The University of Nebraska's law school has a rural practitioner program to address the issue there.

Much of this may be explained by the lack of law schools in rural areas. Most law schools are in urban areas, and law students tend to develop contacts in the legal community where they attend law school. I particularly remember a law school classmate of mine who was from the Tri-Cities, but took the Oregon Bar exam and remained in Portland because of the contacts he had developed during law school at Lewis & Clark.

This Court, and the WSBA have taken recent steps to address the issue with the new pathways to licensure. The legislature has also recently taken action, creating a new internship program for rural and underserved counties. Yakima County has recently increase pay for their public attorneys. I believe these programs will help, given time.

King County, by contrast, is most likely suffering from a workload issue, not a caseload issue. Public defenders there appear to have developed either a culture or a policy that encourages heavy litigation of cases without regards to the merits of the case or possibility of success. Public defenders in King County file sentence mitigation packages in every felony case, even those resolved by way of plea agreement. It is also routine to file Notices of Appeal in cases where the defendant has pleaded guilty. Doubtless, those attorneys feel that they would be ineffective if they did not take these steps, but if that were true, indigent defenders in every other region of the State are all ineffective.

If King County wants to continue this practice of heavy litigation of cases to the point where public defenders there can only handle 1/3 of the cases of the rest of the state, they have the attorneys (and the money) to do it. However, there are systemic problems in the rural parts of the state, especially those far from a law school, that need to be addressed. The new pathways to licensure are likely to help, in time. Hopefully, other new solutions will be found and implemented in the near future. However, these proposed amendments will not. Therefore, I urge you to not adopt the proposed caseload standards.

Jason Walker,
WSBA #44358.

Citations:

<https://www.wsba.org/docs/default-source/licensing/membership-info->

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