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**To:** [Martinez, Jacquelynn](#)  
**Subject:** FW: Lisa Daugaard/Purpose Dignity Action -- comments on proposed indigent defense standards  
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**From:** Lisa Daugaard <lisa.daugaard@wearepda.org>  
**Sent:** Thursday, October 31, 2024 12:38 PM  
**To:** OFFICE RECEPTIONIST, CLERK <SUPREME@COURTS.WA.GOV>  
**Subject:** Lisa Daugaard/Purpose Dignity Action -- comments on proposed indigent defense standards

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Greetings, Justices:

Thank you for your extensive, thoughtful process regarding the proposed changes to Washington's indigent defense standards. I likely can't attend the November 13 hearing, but have two points I want to bring to your attention as you consider the approach and timeline for implementation of new standards.

As background, as some of you know, I was a long-time public defender and public defense manager in Seattle/King County. I started as a staff attorney in Seattle Municipal Court (still my favorite job ever) in 1996 with The Defender Association, then supervised TDA's misdemeanor practice for three years before becoming Deputy Director for seven years and then serving as inaugural Deputy Director of King County's then-new Department of Public Defense from 2014-2015.

***Hours-based case credit system as de facto weighting strategy.*** In my roles with TDA and then King County DPD, I was very involved in revising and improving King County's case credit system (which "weighted" cases depending on the hours they actually require, awarding new credits every so many hours depending on case type). I've not kept up with how that system has evolved since I left public defense in 2015, but at the time, it was a highly effective way to regulate workloads, not based on an abstracted national assumption about how much time a particular kind of case takes, but based on how much time the case actually took under current, local conditions. The advent of the hour-based case credit system immediately, sharply, reduced the number of cases assigned to attorneys across all case types (and, relatedly, of course, increased the budget requirement for the department considerably, so it is to King County's credit that it was accepted).

The vulnerability of such a system is that supervisors must leave room, in assigning new cases, for attorneys to "work their way" into additional credits for existing cases. A premium is placed on

supervisors' and managers' ability to accurately forecast how much time already-assigned cases will require, to know to lay off new assignments accordingly. If supervisors and managers are unable to accurately forecast in this way, excessive new assignments, combined with requirements to immediately see and begin work for new clients, can create a downward spiral in which attorneys don't have the breathing space to do enough work on existing cases to earn additional credits. But -- this can be managed by supporting supervisors and managers to understand how critical their role in holding back assignments is, and in ensuring that staff attorneys can have a clear line of communication to supervisors/managers about how much time they expect their existing cases will require.

The takeaway is that, having helped to design and having managed a system using case credits based on actual hours spent, I know this approach can work and can deliver substantial relief and appropriate workload regulation. I'd be glad to talk more about the approach should that prove useful.

***Considerations if pre-filing diversion is expected to alleviate budget impact.*** I also wanted to raise considerations regarding the implicit and sometimes explicit expectation that reducing case filings can alleviate the expected budget impact of revised indigent defense workload standards.

Since 2015, I've been an Executive Director at Purpose Dignity Action, the current version of the former Defender Association which now concentrates exclusively on developing, implementing and supporting community-based public safety initiatives, including especially, pre-booking diversion programs around the state aligned with the [LEAD model](#). These include LEAD programs (RCW 71.24.589 is the statewide LEAD grant program), Arrest & Jail Alternatives programs administered by WASPC (RCW 36.28A.450 is the AJA grant program), and Recovery Navigator Programs (RCW 71.24.115), all of which are organized around LEAD core principles. LEAD is an evidence-based, widely replicated approach which responds to identified law violations, where there is a public expectation of enforcement, and allows police officers to divert individuals to immediate community-based care, in lieu of jail booking and, critical for this discussion, in lieu of referral to prosecutors for charges. Each participating community defines which offenses are eligible for pre-booking diversion; this typically includes felony drug offenses including delivery and possession with intent to deliver, and a wide range of misdemeanor public order offenses such as drug possession, public use or narcotics, prostitution, prostitution loitering, trespass, property destruction, unlawful transit conduct, theft, obstructing and similar.

I wanted to reach out to raise this existing, state-funded, pre-booking/pre-filing diversion network of resources, to your attention, to flag both that (1) a state-funded framework providing a well-regarded, trusted mechanism to reduce the number of filed cases, exists; and (2) that it presently has nowhere near the capacity to take on all the cases that need to be diverted pre-filing in order to mitigate the budget impact of the proposed new indigent defense standards. The good news is -- we don't need to reinvent the wheel, it exists throughout the state, at least at a demonstration scale, and much work has been done to create buy-in and protocols to allow for pre-booking and pre-filing referrals. Also, however -- if all available funds go to lawyers (to be blunt), there won't be the resources to scale the very programs to absorb these cases without requiring assignment of a lawyer.

We urge that the state proceed on both paths simultaneously -- building the pre-booking diversion framework to scale, while implementing revised indigent defense standards over time. Creating a void, where there is no meaningful response to impactful law violations, is unwise from a public policy standpoint, but creating a real, robust, well-regarded alternative to criminal charges absolutely *is* possible if these programs can be scaled. I hope your forthcoming orders and guidance will embrace the existing pre-booking diversion framework and acknowledge that it needs investment in order to contain the budget impact of the revised standards as far as possible. The side benefit is that outcomes for individuals, and public safety impact in communities, will also be enhanced.

Many thanks for considering these observations, and please don't hesitate to call on us at PDA if we can be of assistance in navigating this terrain.

Yours,

Lisa Dugaard  
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