From: OFFICE RECEPTIONIST, CLERK
To: Martinez, Jacquelynn
Subject: FW: Proposed Changes to standards of public defense
Date: Monday, October 28, 2024 4:52:20 PM

From: Martin Mooney <mmooney@snocopda.org>
Sent: Monday, October 28, 2024 4:49 PM
To: OFFICE RECEPTIONIST, CLERK <SUPREME@COURTS.WA.GOV>
Subject: Proposed Changes to standards of public defense

To the court:

I ask the court to adopt the proposed standards for indigent defense. Admittedly, much of what I offer is anecdotal. However, it is based upon close to three decades of observations and experience as a public defender. I started at the Snohomish Public Defender Association in August 1996. I worked there ever since. I have seen the office grow from less than twenty full time lawyers around 100. My first observation is that the lawyers who remain are extremely dedicated. The workload is immense. But the workload is compounded by the nature of the work. The work even under the proposed caseloads is emotional taxing (recent research addresses the secondary trauma public defenders experience by working with traumatized clients and handling cases with traumatized victims). My second observation is the culture of the superior courts is it is an expectation that the public defenders work extraordinary hours so that the cases move along through the system. Indeed, the biggest argument against the adoption of the standards is cost; in other words, even though the public defender is compensated at a fraction of the judicial officer, she must bear the burden of keeping costs at a politically acceptable level. The third observation is that in almost 30 years of this work, I can count on one hand the number of full time, career felony case load public defenders that have remained in a committed relationship while raising two or more children. I realize relationships end for all kinds of reasons, but I find in peculiar that so very, very few career public defenders handling felony caseloads remain in committed marriage/relationship with two or more children. It suggests that the current caseloads just are not conducive to a meaningful life work balance. For years, I have taken reduced pay to handle special caseloads, because handling a full felony caseload is not conducive to being a present father to my children and a present spouse to my wife.

The third observation addresses a fourth. In recent years, I have attended ethic CLEs (in which judges have spoken) addressed to public defenders which talk about how lawyers have an obligation to find a work and homelife balance, to take meaningful vacation, and to get proper rest. This balance is essential to providing quality representation.

The arguments against adoption of the standards are not well-taken. First, cost is not a good argument. The argument about cost assumes a fixed allocation for public defense as opposed an

allocation for criminal justice/courts in general where a re-allocation of resources can be studied. In addition, cost was the primary argument years ago against adopting any case load limits. The courts and governments have adjusted, and they will adjust with new standards. The argument that reduced caseloads will necessitate more prosecutors. This is not necessarily true. My experience is that prosecutors' office exploit (not necessarily intentionally) the workload of the public defense attorney when making plea offers and deciding which cases (and against which attorneys) to push cases to trial. The argument also mistakenly assumes the work per case for a prosecutor is commensurate with the work per case of a public defender. I am not aware of such research. This leads to the argument that the recent federal study may not be applicable in Washington. This argument is weak. It is weak, because the federal study was conducted after a series of similar studies in different states reached similar conclusions. The federal study found similar results as the states. No evidence or research indicates Washington cases are somehow so different than cases in other jurisdictions that they require significantly less work by defense counsel.

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