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Subject: Fw: Proposed changes to Public Defender Standards
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From: Mary Robnett <mary.robnett@piercecountywa.gov>
Sent: Saturday, October 12, 2024 5:14 AM
To: OFFICE RECEPTIONIST, CLERK <SUPREME@COURTS.WA.GOV>
Subject: Re: Proposed changes to Public Defender Standards

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Honorable Justices:

I urge this Court to reject the proposed public defender caseload limits recommendations and instead take a more reasoned approach. I ask that you help with a Washington workload study, as recommended by the Rand report. The recommendations before this Court are not based on Washington data, are not from a neutral source, are not needed in many Washington jurisdictions, and will have a catastrophic effect on the entire criminal justice system.

The recommendations come to the court from the WSBA Council on Public Defense. The basis for the recommendations, the Rand report, is not a study. Rather, it is a survey of a small sampling of public defenders. Those public defenders who were surveyed feel they should earn a higher salary and carry a lesser workload. Most public attorneys, including prosecutors, would likely convey a similar sentiment.

Aside from the general sentiment nation-wide from public attorneys - that they have too much work and too little pay - the Rand report has no relation to Washington State. The report acknowledges that, "[w]hile having a specific state or local workload study remains the ideal approach for public defense resource planning, in the absence of a jurisdiction-specific study, nationally applicable workload standards are needed to provide benchmarks and assist *administrators* in assessing system needs."^[1]

Beyond the lack of nexus between the Rand report and Washington State, the recommendations from the bar association are not from a neutral and objective source. The WSBA Council on Public Defense made these recommendations. The council is primarily made up of public defenders (or former public defenders), and membership is distinctly weighted to the I-5 corridor. The council has 23 voting members, and the make-up is as follows:

- Robert Boruchowitz (Emeritus), Seattle University School of Law
- Ann Christian (Emeritus), Retired (retired indigent defense coordinator)
- Leandra Craft, King County Prosecuting Attorney
- Eileen Farley (Emeritus), Northwest Defenders Association
- Louis Frantz, Retired (public defender)
- Molly Gilbert, Union President, King County Department of Public Defense
- Justice Sheryl Gordon McCloud, Washington Supreme Court (former public defender)

- Christie Hedman, Washington Defender Association
- Paul Holland, Seattle University School of Law
- Larry Jefferson, Office of Public Defense
- Anita Khandelwal, King County Department of Public Defense
- Arian Noma, Gonzaga University School of Law
- Jonathan Nomamiukor, ACLU of Washington
- Abigael Pence, Pacific Point Defense
- Judge Marla L. Polin, Spokane County Superior Court
- Abraham Ritter, Gonzaga University School of Law
- Jason Schwarz (Immediate Past-Chair), Snohomish County Public Defender
- Judge Dee A. Sonntag, Tacoma Municipal Court (former public defender)
- Christopher Swaby, Swaby Law Firm
- Victoria Blumhorst, Spokane County WDA Representative
- David Montes, ACLU of Washington
- Jonathan Quittner, Law Office of Jonathan Quittner Public Defender
- Karen Denise Wilson, KD Wilson Law PLLC WDA Representative
- Maya Titova, University of Washington School of Law
- Maialisa Vanyo (Chair), Whatcom County Public Defender Office

There are two other key points for this Court to keep in mind: 1) Caseload numbers do not necessarily correlate to workload, and 2) Washington is a geographically, politically, and population diverse state with individual court systems operating in individual jurisdictions.

Rather than a one-size-fits-all approach of drastically limiting caseloads, Washington should take a two-step approach now: 1) Conduct a jurisdiction specific workload study, as recommended by the Rand report, and 2) Use the national survey standards assist *local administrators* in assessing system needs.

Based on comments and testimony already before this Court, it is obvious that some jurisdictions are facing public defender shortages and some jurisdictions are not. In some jurisdictions public defenders have manageable workloads, and in some jurisdictions they do not. A myriad of factors effect specific jurisdictions and workloads including funding, population, crime rates, court processes, etc.

This Court has heard emotional and sometimes personal testimony from many King and Snohomish County public defenders who feel overwhelmed by their work demands. I acknowledge that those who have testified before this Court have legitimate concerns. I also recognize that all public attorneys, defenders and prosecutors, are coming out of a period of several years where a global pandemic and numerous emergency court orders drastically impacted and altered court practices, backlogs, and workloads. We should all acknowledge that the past five years have been frustrating and exhausting for all public attorneys in the criminal justice system.

The Rand report recommends “*a specific state or local workload study for public defense resource planning.*” Such a study would benefit those jurisdictions that are in need of additional resources. The study would also “assist *administrators* [and local jurisdiction policymakers] in assessing system needs.”

This Court has heard ample testimony that the State does not contribute enough to public defense. A Washington specific workload study would help inform local jurisdictions and State policymakers about the specific needs of each jurisdiction. Then local jurisdictions and State policymakers could work on system-based solutions tailored to jurisdictional needs, including funding, incentivizing public service, streamlining court processes, and perhaps an adjustment to caseload limits.

Public defenders are just one part of the criminal justice system. In any system, an adjustment to one part of the system, such as a drastic change in caseload limits, will have an immediate effect on the entire system. This proposed change will necessarily impact prosecutors, courts, and crime victims.

Because there will be drastic systemwide impacts, I urge you to help evaluate jurisdiction by jurisdiction the actual needs of public defenders across the state as recommended by the Rand report. Until we have Washington data, the national standards can provide benchmarks and assist local *administrators* in assessing system needs. The proposed standards are unnecessary in many

jurisdictions but imposing such radical and extreme (and in some jurisdictions unwarranted) changes will have a catastrophic and lasting impact on every individual criminal justice system in every jurisdiction statewide.

Respectfully,

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^[1] PACE, BRINK, LEE, HANLON, National Public Defense Workload Study, 2023 Rand Corporation; Summary p. X