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Subject: FW: COMMENT ON CHANGES FOR PUBLIC DEFENSE STANDARDS
Date: Thursday, October 31, 2024 2:32:47 PM

From: Maureen Astley <mastley@franklincountywa.gov>
Sent: Thursday, October 31, 2024 2:17 PM
To: OFFICE RECEPTIONIST, CLERK <SUPREME@COURTS.WA.GOV>
Subject: COMMENT ON CHANGES FOR PUBLIC DEFENSE STANDARDS

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Chaos, crisis, inviting vigilante justice... you've heard all the adjectives and phrases that describe what will happen to our State if you adopt the new criminal case standards proposed by the WSBA and its Council on Public Defense. I have a few additions: ***it will be both an unmitigated disaster and an irresponsible betrayal of public trust.*** I certainly mean no disrespect to your office or the difficult decisions you wrestle with—this is not hyperbole, but reality as I see it. If we as a State devolve and lower our standards (both literally and figuratively), these are not only predictions, but promises. If the felony criminal caseload is reduced from 150 to 47 annually, the future of the entire criminal law system in our State is bleak and I and many others (from Law Enforcement, Prosecution and Defense alike) sounding the alarms will take no joy in saying we told you so.

Who am I and why should my opinion matter to you? My name is Maureen Astley and I'm a Chief Criminal Deputy Prosecuting Attorney. I'm a career prosecutor that's been prosecuting felonies (the worst of the worst) for over a decade, fifteen years as a DPA total. I work very hard—day in and day out—in the trenches on behalf of the people of our State (in Franklin County specifically) who have been victims of violent crime. I am able to do the emotionally taxing, increasingly stressful, and consistently difficult job of serving the public because I have thoughtful, dedicated opponents who represent the accused and hold the State to its high burden of proof. Both sides of a criminal case are vital and important. What the WSBA is asking you to do is—without a well-designed plan—ignore one side in favor of the other and the people who stand to lose the most are crime victims.

There may be pockets in our State (King, Snohomish, Pierce, Thurston counties) that could shoulder the change, where the population is vast and law school graduates are plenty. But you were elected to represent our *entire* State (not just the west side

of it) and it is your responsibility to consider the effects of your decision to the State as a whole. Where I practice in rural Eastern Washington, the closest law school is 135 miles away and attracting public defenders to our area without family or other personal ties is an immense challenge. I need only look across the river to Benton County to see the impact of not enough defense attorneys while cases languish on in District Court, defendants months after months told to be patient and to keep waiting. We are on the precipice of a crisis and for the Supreme Court to dig us further into a hole—to mandate more public defenders in places they do not exist—is unconscionable. To accept the 47 case cap standard would be to add fuel to a fire causing an inferno raging completely out of control. I will not sit idly by and watch our system burn. The matches are in your hands... I sincerely urge you not to set our criminal law system ablaze.

The truth is that law school enrollment is declining while baby boomers are retiring. With no funding or money from the State dedicated to this undertaking, the counties will be left holding the bag for a) hiring more attorneys and b) increasing the pay to attract people into public defense work. And even if the counties are financially able to increase the pay for defense attorneys (throwing money at the problem), public defenders do not grow on trees. We cannot pay our way out of the problem. The proposal ignores that many in law school want to practice completely different areas of law and that we will never be able to throw enough money at law school graduates to change their career pathways.

I read the proposal for the changes, and most of the cases I currently prosecute would be worth 5 case credits. And even after 15 years as a prosecutor, I would be “unqualified” to defend a third strike (persistent offender case) day 1 (which is as baffling as it is illogical). Those of us who are career prosecutors don’t do the job for the money, but if this change were instituted, there would be zero incentive for us to stay prosecutors—experienced trial attorneys will switch sides, defend 5-10 felonies a year, and work way less for more pay and greater flexibility. *By comparison, my typical active caseload is approximately 70 cases.* Aside from losing talented prosecutors, reducing defense’s felony caseload caps will directly and detrimentally affect crime victims in a myriad of ways. In this dystopian future, non-violent and property crime felonies will—of necessity—take a backseat in jurisdictions like mine. Every time someone flees from police and eludes law enforcement on our public highways, endangering other motorists, they will do so with impunity. We know already how short-sighted our Legislature was in amending the pursuit law and indeed the pendulum has swung back towards a reasonable enforcement of the law. When an employee steals money from their employer, prosecutors will have to hope insurance companies will make businesses whole. Eventually when someone breaks into a home for a Residential Burglary- stealing personal property including firearms- the cases will not be charged. Maybe the stolen firearm charge will accompany a Homicide case in the future... With fewer property crimes charged, alternative programs like Drug Court, Mental Health Court, and Veterans Court that assist non-violent individuals on the margins to meaningfully change their lives will cease to exist.

Rest assured that the public will not take the changes and their ripple effects lightly. I've seen vigilante justice firsthand— what can happen when Law Enforcement tells a crime victim “there's nothing we can do for you.” In August of 2021 a woman tried and tried and tried to have Law Enforcement recover her car from a person she let use it for a limited purpose. He had taken advantage of her kindness, keeping the vehicle for his own purposes for an extended period of time. She was told by two different agencies it was “a civil issue” and that Law Enforcement would not help her. In the middle of the night she took a taxi to recover her stolen vehicle, and stabbed the thief through the heart resulting in his death. *State v. Marta Miller*, Franklin County Superior Court Cause No. 21-1-50301-11. In 2014 a Spokane man shot a fleeing car thief in the back of his head resulting in his death. (*State v. Gail Gerlach*). These are just two real-life scenarios of what can and will happen when people take the law into their own hands. A core principle of my prosecutorial philosophy is that all life is precious and that moral relativity has no place in the practice of criminal law. Forcing prosecutors to charge violent crimes alone does an extreme disservice to the very public we—like you—are privileged to serve. You can rest assured that if you adopt these standards I will channel *The Shawshank Redemption's* Andy Dufresne and you will receive a letter from me discussing every case I had to decline to file and every victim that was personally affected by what could be a harmful and reckless decision.

Maybe case cap limits need to change- maybe there should be an overhaul- maybe the State should fully fund this initiative and appoint public defenders to live in specific areas of the state- but without legitimate and necessary actionable plans, the risk of implementing these changes far outweigh the benefits. To avoid ***an unmitigated disaster and an irresponsible betrayal of public trust I vehemently urge you to reject the changes as proposed.*** I will not sit idly by and watch our system burn— nor should you.

Thank you- I appreciate your time and attention.

Sincerely,



A handwritten signature in purple ink, reading "Maureen R. Astley".

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