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Subject: FW: Comment on Standards for Indigent Defense Caseloads
Date: Friday, September 13, 2024 2:43:48 PM

From: Greene, Michael (DPD) <micgreene@kingcounty.gov>
Sent: Friday, September 13, 2024 2:41 PM
To: OFFICE RECEPTIONIST, CLERK <SUPREME@COURTS.WA.GOV>
Subject: Comment on Standards for Indigent Defense Caseloads

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To the Supreme Court of Washington,

I am writing in support of the proposed amendments regarding the Standards for Indigent Defense Caseloads. I have been a public defense attorney with the King County Department of Public Defense for two years now. This work is demanding, hectic, stressful, but ultimately rewarding. It is an incredible privilege to serve our clients, many of whom are among the most marginalized people in our community. Often, public defenders are the only people in our clients' lives who treat them with dignity, compassion, and respect. We are the only actors in the criminal system who are ethically obligated to ensure our clients' rights are scrupulously honored. Unfortunately, without a reduction in our caseload, many highly qualified, highly motivated, and highly trained attorneys will continue leaving public defense.

The current caseload standards are not sustainable. My office has seen massive attrition in the two years I have been with DPD because of the demanding caseload. While I was in District Court, I routinely represented more than 180 clients at a time with open DUIs. Not including review hearings, bench warrants, or pleas, I generally represented clients at 40 or more hearings a week. At best, I was able to provide the bare minimum level of representation mandated by the Constitution. Effective representation requires more than just standing next to a client in court. Defenses are available even in cases that seem simple. Our clients should be entitled to vigorously pursue those defenses and challenge the State's evidence against them. Unfortunately, public defenders are often put in a position where simply being there is the best they can do. In Superior Court, I currently represent almost 80 clients. The level of representation I am able to provide has not changed. Although I represent fewer clients now, the caseload is still extreme. The amount of discovery, complexity of the legal issues, and the difficulty I have communicating with my clients who are being held in custody all demand more of my time than I have to give.

My caseload is not evenly spread out throughout the year. While new cases sometimes come in at a

relatively manageable pace, for much of the year the best I can do is triage my clients' cases. For example, attorneys in my office have recently been assigned 7-10 new felony cases per week. Almost all of our new clients are being held in custody by the State. There is no way to provide constitutionally adequate representation to clients when so many new cases come in at once. Our mitigation specialists do not have enough time to find treatment and other supports for our new clients to prepare plans for their release.. Our investigators are backed up beginning investigations, even when potentially exculpatory evidence could be lost due to the delay. With so many new cases, most of my workday is spent in court sitting in on arraignment and bond calendars rather than making any meaningful progress on the rest of my caseload. Under these conditions, even remembering which client goes with which case can be extremely difficult. Without a reduction in the caseload standards, there is little relief in sight. I personally know many public defenders who have quit or are thinking about quitting because they cannot adequately represent the number of clients they are assigned.

Many of the voices raising concerns about the new caseload standards are calling for the Court to hold the course, convene panels, conduct studies, and attempt to discern the potentially unforeseen impacts of these rule changes. These rule changes, they argue, will ultimately lead to disarray because of a public defender shortage. However, these voices ignore the obvious problem with their argument: the public defense system is already in disarray because there are already far too few public defenders in Washington. There are not enough attorneys to handle the number of criminal cases being filed, plain and simple. If nothing changes, the disarray will remain. The voices being raised against lowering the caseload standards are asking the Court to put its head in the sand and ignore the crisis staring it in the face. The Bar Association has already taken action on this crisis. The Court must also take action to begin to remedy this crisis. If the Court does not act to significantly reduce caseloads, more public defenders will quit, and the crisis will become more and more acute.

Thank you for your consideration,

Michael Greene, he/him

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