From: OFFICE RECEPTIONIST, CLERK
To: Martinez, Jacquelynn
Subject: FW: Comment on Standards for Indigent Defense Amendment (CrR 3.1, CrRLJ 3.1, JuCR 9.2 STDS)
Date: Friday, September 13, 2024 10:33:45 AM

From: Shanovich, Ryan <rshanovich@kingcounty.gov>
Sent: Friday, September 13, 2024 10:31 AM
To: supreme@wa.courts.gov; OFFICE RECEPTIONIST, CLERK <SUPREME@COURTS.WA.GOV>
Subject: RE: Comment on Standards for Indigent Defense Amendment (CrR 3.1, CrRLJ 3.1, JuCR 9.2 STDS)

Greetings,

I have been working as a trial attorney and supervisor in public defense for 15 years. Through this time, I have tried over 50 jury trials, conducted trainings for hundreds of lawyers in three different jurisdictions, and counseled colleagues and supervisees as they have grappled with the kaleidoscopic stressors of the work. Of relevant note, I practiced in Florida as that state grappled with minimum caseload standards over a decade ago when onerous felony caseloads were challenged by the Miami-Dade public defender. As a public defender at that office, there were prevailing fears of malpractice and burnout at the expense of indigent clients. Today, I sense the same anxiety and fear among my colleagues in King County. After working in south Florida, I supervised for many years at the Neighborhood Defender Service of Harlem, where we were able to manicure our attorneys' caseloads much more easily, controlling against burnout. I moved out to Washington with my wife, who is also a public defender, and have been shocked that such a 'progessive' state would allow for such crushing caseloads in a way that was both callous and counterproductive. As such, I consider myself an expert in the field of case load standards for indigent defense.

My first comment on the proposed caseload standards would be that the Supreme Court should be extremely wary of any comments against these standards by agents who are not public defenders. From my experience, I know these actors, whether they be judicial, prosecutorial, or merely actuarial, have a very limited understanding of the life-altering stress of a heavy defender caseload. These actors also have a perverse incentive to speak against caseload limits, and it has shown over the last several months. It is not the role of the judiciary or prosecution to object to limiting caseloads for attorneys of the poor people they collectively put behind bars. There's a cruel historical irony in the fact that so many judges and prosecutors have come out against providing indigent defendants access to attorneys who have time to defend them adequately, which current caseloads do not allow. When I read op-eds from Superior Court judges against case load limits, I'm

reminded of the very actors who told Gideon he was not entitled to an attorney. Apparently, they prefer every defendant to have a public defender poorly represent them than to force the state to act, however painful that might be, to meet its constitutional obligations. I would refer this Court to GR 42 and ask why such a rule was necessary if we could trust the opinions of sitting judges on public defense caseloads. More importantly, the people opposed to these standards have not woken up every night of the week multiple times with racing thoughts about what certain clients need done on their cases, fearful of missing some crucial motion, investigative thread or otherwise, that will harm a client. There is a huge asymmetry here. It simply is another world of heartache to feel the obligation to defend an individual against criminal charges. When the number of people you represent additively increases, the burden of work expands multiplicatively, and the stress in orders of magnitude. As a supervisor in King County, I have spent much more time counseling lawyers on burnout and triage rather than working with them on career goals or staffing litigation. It is not uncommon for public defenders here to talk about the antidepressants they have started taking because for so many there simply is no way to function on the current caseload without pharmacological intervention. The fact that the current workload has deteriorated and damaged so many hardworking public defenders is unconscionable. The down-current effects of this squarely lie on the poor people charged with crimes, doubling the harm.

The proposed new caseload caps will help bring the work of public defense back into balance. They will allow us to keep attorneys we have spent years training and developing. The standards do another important thing: they demonstrate the principles of *Gideon* are valued in Washington. The criminal justice system is constantly commented upon in public discourse, distorted and disfigured for political gain in every news cycle. One of the most effective ways to ensure criminal prosecutions are constitutional and publicly scrutinized is to provide indigent persons with defense attorneys who have the time and energy to adequately defend their rights. Under current caseloads, even the toughest attorneys in our office wear down and quietly discuss leaving the work. We have a clear and present crisis in retaining experienced lawyers for the number of serious charges we are handling. A large percentage of our attrition would not have occurred but for the current caseloads. The new WSBA caseload standards must be implemented if the Supreme Court hopes to ensure the constitutional protections of indigent defendants. A secondary benefit will be that some of Washington's hardest-working, most conscientious and caring civil servants might get a better night's sleep. Please do not hesitate to reach out to me for further comment.

Ryan Shanovich
Supervising Attorney
King County Department of Public Defense
Society of Counsel Representing Accused Persons
710 Second Avenue, Suite 1050
Seattle, WA 98104
(206) 263-9380

communication in error, please notify us immediately by telephone, (206) 477-9300 or email.