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Subject: FW: Comment Regarding Proposed Changes to Washington Supreme Court Public Defense Standards
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From: Samantha Boggs <SBoggs@co.whatcom.wa.us>
Sent: Thursday, October 31, 2024 3:22 PM
To: OFFICE RECEPTIONIST, CLERK <SUPREME@COURTS.WA.GOV>
Subject: Comment Regarding Proposed Changes to Washington Supreme Court Public Defense Standards

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Good afternoon,

I am writing to provide feedback regarding proposed changes to public defense standards. I'll start by sharing that over the last six years professionally, I have held the role of Legal Services Coordinator at Skagit Domestic Violence and Sexual Assault Services, as well as my current role of Victim Witness Coordinator with the Whatcom Prosecuting Attorney's Office in the felony unit. Over the years I have worked with many individuals who were the victims of crime, or were being charged themselves and needed the services of public defenders. The role that public defenders play in our legal system is vital, and it goes without saying that public defenders are incredibly overworked. However, it is not just public defenders who are facing the consequences of astronomically high caseloads – it is attorneys on both sides of the aisle and the court itself. There needs to be a larger plan in place in order for a reduction of caseloads on either side to be successful.

In the Whatcom County Superior Court, prosecutors see an average of 150-200 felony cases on their caseload at any given point in time. These charges range from less serious crimes such as theft, to the most egregious cases in need of the most care such as homicide or murder. Not only does this lead to burnout in the staff, with some leaving for other positions, but the court system doesn't have the capacity to handle all of these cases. We only have four judges available for felony court, which leaves one or two maximum to hold a trial on a given week. Due to high caseloads and limited courtroom availability, it is not uncommon for cases to take several years to resolve. In-custody cases are often given priority, which leads to out-of-custody matters pending sometimes around three to four years before getting to trial. As a Victim Advocate, I see the devastating impact this has on survivors, their family, and our community as a whole. They have lost faith in the judicial system, our office, the defense attorneys, and the concept of "justice" as a whole.

It is also common in Whatcom County to see defendants go several weeks without counsel. This is especially common when a defendant is conflicted out from the public defenders office. They will be assigned to conflict counsel, which consists of two attorneys with our county, or sometimes appointed from the bench to a random private attorney in the community. Delays in acquiring representation increases the already incredibly lengthy time it takes for a case to resolve or be prepared for trial. Imposing a lowered limit of cases in the public defender's office will lead to more difficulty finding representation, and a larger quantity of cases experiencing unnecessary delays. This has grave impacts on defendants and victims alike.

Lastly, there is ongoing conversation in our state regarding the lack of public defenders available for cases. I believe this is partially due to a decreased number of individuals available or applying for positions in criminal law in general. Our office has seen increased difficulty in finding individuals who are qualified and applying for positions in our District Court and Superior Court positions. This may be due to pay or high case loads as well. However, we are not seeing any kind of suggestion to modify the amount of cases we have. The suggestion to further restrict either side to a significantly lower number of cases on the surface sounds like a great idea, but in practice will not work well without a balancing of both sides, funding available to hire for new positions, and individuals with legal degrees ready to fill in those positions. New attorneys also will not fix lack of courtroom availability to hear cases that need to go to trial. More cases may be better prepared to get to trial, but they will still have to wait months if not longer to be the one chosen case for a jury trial that week (at least in Whatcom County). To cut corners, this could lead to lower rates of filing on charges that should be filed (such as "uncooperative" survivors in domestic violence cases). The rights of defendants is imperative, but what about the rights of victims who are often cast to the side in these conversations? What about their right to safety, security, and justice under the law and in their community?

Overall, I am strongly opposed to this proposition not because I do not believe in the merit of it, but because there are some overlooked factors that could lead to further collapse of our justice system.

I urge you to please consider the voice of myself, several of my colleagues, and many others who are writing asking you not to enact this proposal. This is important work that needs to continue being examined and discussed to ensure more harm is not caused in the process of finding a solution.

Thank you sincerely for your time,

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