

October 31, 2024

Washington State Supreme Court
P.O. Box 40929
Olympia, WA 98504

RE: Reject Proposed Rule Changes for Reduced Caseload Standards

Honorable Chief Justice Gonzalez and Associate Justices:

As a licensed member of the Washington State Bar Association (WSBA) and working legal professional in this state, I write today asking the Court to **reject** the recent proposed rule change which would alter indigent defense standards and reduce caseload limits for public defenders.

In observing the news, listening to stakeholders, and generally following the evolution of this proposal, I am obligated to first acknowledge that the issues public defenders and WSBA raise are significant and worthy of redress. I believe it is best for our state to have a well-resourced and well-staffed criminal justice system, to include public defenders.

However, I cannot support the proposal as a legitimate solution given the glaring collateral damage should the rule take effect. Local governments have made clear that the rule proposal sets forth an unachievable standard given current budgets and workforce, which then sets the stage for reduced criminal accountability as a result. When there's not enough money or attorneys to do the job, more cases will be dismissed, and every Washington community would do best to prepare for increased threats to public safety and expedited returns of offenders back to our neighborhoods having faced little to no accountability.

Not just as an attorney, but as a Washington resident, I fear such a result.

Aside from the discussions on when Washington State may be ready for such a change, I wanted to additionally offer the Court perspective which I've noticed has been somewhat absent thus far in the stakeholdering process.

Public defenders, prosecutors, public safety officials, local governments, and various others have offered how this rule would impact them and why that should be enough to persuade the Court. Some have suggested that a reduced caseload standard, regardless of the downstream effects on public safety, would immediately have a positive impact on attorney wellness and work-life balance in the public defense profession. These advocates seem to believe that fact would then make the profession more attractive and the workforce would develop in time. Others have offered that the solution lies in the reverse order – that the Legislature should look to appropriate funds or otherwise empower local governments to increase their revenues so

they can spend on the necessitated workforce and public defense services before changing caseload limits. These advocates seem to believe that money is the solution, here.

I think it predictable that both “sides” would propose a somewhat selfish solution. However, I think they are both missing the good parts of each other’s stances. Underlying funds and resources need to be provided hand-in-hand with making the profession more desirable and better balanced.

As a younger attorney with a few years of experience in public service and who would likely be considered a qualified and desirable hire for the understaffed public defense (and prosecutorial) offices, I am completely uninterested in applying for such positions here in Washington State. Not for a lack of interest, as rather I have significant personal interest in the matters of local government and criminal law.

For me, there’s a combination of factors which make those jobs unappealing. It has to do with the situation so many law school graduates find themselves in after graduation. While it’s certainly not the case for every law school graduate, most of those I know who graduated in the last ten years or so 1) have significant student loans, and 2) are trying to find a job which matches the cost of living of where that job is.

It should come as no surprise that Washington is considered one of the states with a higher cost of living, at the [7th most expensive in the nation](#). And young voters are talking about the various ways that truth impacts them as we lead up to another election.

This goes to show that in order to attract the workforce, compensation for public service attorneys desperately needs to be revisited. This is especially true as more people continue to move to Washington from other parts of the country and face increased costs. I would know. I moved here just a few years ago.

Where I live, in Thurston County, the government jobs page allows for a timely example. A [Deputy Sheriff](#) (lateral) opening is available, with no higher education requirements, comes with a \$25,000 hiring bonus, and a starting salary of up to \$99,237. None of that accounts for the overtime, which is paid hourly, or other incentives.

Meanwhile, Thurston County Public Defense has [Defense Attorney I](#) openings offering \$6,626 – \$6,891 per month (or \$79,512 – \$82,692 annually), plainly stating the position is not eligible for overtime despite the well known fact that those attorneys will work extra hours.

To be clear, I am in no way advocating that law enforcement in this county is overcompensated. I recognize they have a hiring strategy which reflects the difficulties of the job, increasing crime rates, and the subsequent demand for more staff. But the contrast of pay and benefits, given the disparities in education and the costs that come with it, begs the question: How do young attorneys, who are eligible to fill these needed positions, react to a good job opportunity when they sit down, do the math, and realize that “good job” isn’t financially feasible?

At this time, pursuing public service legal work in Thurston County is unaffordable for me and my family, even though I would absolutely be interested in serving my community in that capacity. For other neighboring counties whose job postings I've checked, the result was the same.

In conclusion, I believe it best to find a new way forward in addressing the needs which WSBA is attempting to meet with the proposed rule change. The Legislature ought to engage, evaluate revenue generating capacities for local governments, appropriate funds as needed, and act promptly in a way which financially supports hiring, retaining, and taking good care of public service attorneys in the state. Then, equipped with necessary resources, local governments need to invest in making these jobs attractive with competitive pay, recognition of overtime, adjusting for cost of living, and acknowledging other factors which impact attorney wellness.

State and local officials can solve this problem and they should do so. However, any honest solution will not require Washingtonians to give up any sense of safety in exchange.

I respectfully request the Court reject the proposal and push for a holistic, Washington-specific solution.

Sincerely,

Taylor Gardner

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