

**From:** [OFFICE RECEPTIONIST, CLERK](#)  
**To:** [Martinez, Jacquelynn](#)  
**Subject:** FW: Proposed Changes CrR3.1/CrRLJ3.1/JuCR9.2 STDS - Standards for Indigent Defense  
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**From:** Vanessa C. Martin <vanessa@vmartinlaw.com>  
**Sent:** Thursday, October 31, 2024 10:23 PM  
**To:** OFFICE RECEPTIONIST, CLERK <SUPREME@COURTS.WA.GOV>  
**Subject:** Proposed Changes CrR3.1/CrRLJ3.1/JuCR9.2 STDS - Standards for Indigent Defense

Dear Chief Justice and Associate Justices of the Washington State Supreme Court,

I have been a defense attorney for nearly twenty years, primarily working in public defense. Since 2009, I have taken appointed cases in Pierce, King, and Snohomish counties, focusing mainly on violent Class A felonies. Over the years, I have witnessed the public defense system in King County and across the state deteriorate into an unmanageable situation for public defenders. The workload is so overwhelming that no public defender can effectively represent all their clients. Even those who sacrifice their personal lives—spending nights in the office and rarely seeing their families—cannot keep up. I struggle with this balance myself, despite having a significantly lighter caseload than in-house public defenders.

I've seen public defenders mistreated by management, who often dismiss their pleas for help and more manageable caseloads. Instead of addressing the issue, management has delayed assigning new cases until the beginning of each month (effectively kiting cases to try to game the caseload standards system currently in place). This creates a backlog that makes it impossible for defenders to provide effective representation for their current clients. This issue is not just a management issue but also reflects the perspective shared by the judiciary, particularly from presiding judges. There is a troubling level of micromanagement, abuse, gaslighting, and disregard for the well-being of defense attorneys, which is unacceptable.

I have chosen to stop accepting cases in certain jurisdictions, primarily for my own mental and physical health. Local governments consistently underfund public defense, including the pay for Assigned Counsel Panel members who take cases when public defenders have conflicts and/or reach capacity. However, I don't know of any in-house public defender who has left because of salary; it's the crushing caseloads that drive them away. I've witnessed many dedicated defenders struggling under overwhelming workloads, leading to a troubling rate of attrition. Counties across the state are losing experienced public defenders, particularly those qualified

to handle serious cases.

The heavy caseloads harm marginalized clients—often young, non-white individuals involved in gangs with traumatic personal histories—who need experienced attorneys to navigate their complex situations. These clients deserve effective representation as mandated by the Constitution, which includes working with necessary experts. Serious violent felony cases often require extensive psychological evaluations, mitigation efforts, and thorough investigations into clients' backgrounds. This exploration of and use of experts is mandated under *State v. A.N.J.*, 168 Wn.2d 91 (2010) to provide effective assistance.

The toll on defense attorneys is significant. Building rapport with clients and listening to their traumatic histories is emotionally draining. We are exposed to distressing details, from case evidence to personal stories, which can lead to secondary trauma. I have had clients murdered, die by suicide, or attempt suicide. The time needed to develop trust with clients is often underestimated by legislators and prosecutors, compounding the overwhelming amount of discovery we must review.

Most public defenders work with limited or nonexistent staff support, making it impossible to delegate the review of discovery. We also cannot ethically delegate our own review of these materials and must not only review them ourselves but then with clients. We face endless hours of footage, documents, and forensic evidence that we must analyze ourselves, often without adequate time. The courts fail to hold the State accountable for delaying the distribution of discovery materials, sometimes for months and years.

In Snohomish County, I still take appointed cases, where a funding proposal was created to attract skilled attorneys and a rate of pay that allows for manageable caseloads. Unlike public defenders, I can choose whether to accept new cases based on my current workload. Public defenders, however, occasionally seek to withdraw from cases due to their overwhelming burden, but this only shifts the problem to another overworked attorney. They are in constant violation of caseload standards and by proxy the RPCs because they have no other choice.

Many public defenders leave for lower-paying jobs that may not align as well with their values as public defense did but they make that gut-wrenching decision because of self-preservation. The remaining defenders face increased workloads and mental and physical health is taxed beyond the breaking point. I've seen colleagues in tears, and the court often ignores their struggles. It's not just about salary; it's about the unbearable caseloads.

I understand this court is considering implementing significantly reduced caseload

standards statewide. Even if the current standards were enforced, the sheer volume of cases makes it virtually impossible for public defenders to address systemic issues like bias in policing and prosecution. I am heartbroken by the state of public defense in Washington. A friend recently mentioned that he learns of another colleague quitting every time he enters the felony presiding courtroom. Each departure is a painful decision, made considering personal health, family needs, and mental well-being.

While new public defenders are hired, retention remains a significant issue; few stay beyond a few months. I've seen attorneys assigned to serious felony cases who lack any trial experience whatsoever because there is no one else available. Management has made promises to support these attorneys, who do not meet the Public Defense standards to handle the cases under the Rule, but they often fail to follow through, leaving inexperienced defenders to handle complex cases without adequate guidance.

The stress of trying to manage cases they aren't trained to handle only adds to their burden, which ultimately harms clients. We have witnessed heartbreaking losses among our ranks due to severe health issues such as heart attacks, strokes, cancer that had delayed diagnosis due in large part to no time to attend to our own health concerns. Most haunting is the number of people we have lost to suicide. This work has become deadly, and it's unacceptable for the state and local governments to ignore the mental and physical health of public defenders and shirk the obligation to ensure the Constitutional mandate of effective representation for indigent people.

The "wait and see" approach has been in place for a decade and has proven ineffective. The State determines what cases to file yet does not acknowledge the immense pressure placed on defenders to manage these cases. This expectation is not only unreasonable but also demoralizing for those representing our most vulnerable citizens, who often struggle with homelessness, addiction, and trauma.

Since 2009, I have not worked full-time as a public defender, but I had to stop taking cases even on a case-by-case basis on most panels due to my declining health. I was diagnosed last year with complex trauma directly related to this work. I cannot imagine the level of trauma my colleagues endure while managing hundreds of cases annually. The COVID-19 pandemic exacerbated these challenges; we were expected to continue working under unsafe conditions while others were able to protect their health.

Judges often ignored the risks we faced, and we were told not to complain about the nature of our work during the pandemic. We have our own health concerns and families to protect, yet the system has failed to prioritize our safety. It is disheartening that we find ourselves once again pleading for basic humanity. This

Court was a shield for us, issuing emergency orders that forced local jurisdictions to take measures to protect us and our clients.

We have reached a constitutional crisis, with the public defense system on the brink of collapse. Public defenders are beginning to realize their lives are valuable, and many are unwilling to sacrifice their health for this work. This is a choice no one should have to face.

Failing to adopt and implement necessary standards to drastically reduce caseloads in an expedient manner reinforces the troubling idea that the lives and mental health of public defenders are insignificant. The legislature and local governing bodies/Councils claim that making caseloads manageable will be costly and therefore delay is appropriate. However, the true cost will be much greater if there are no attorneys left to represent clients. The constitutional implications of this collapse, along with the potential for significant litigation and relief for clients who have not received effective representation, will be astronomical.

No one I know who has left public defense believes there is a price under which they would return. Recently, there was a proposal to assign unqualified civil attorneys to handle "low-level felonies" on a pro bono basis in King County. The proposal was made by judges, all of whom were former career prosecutors. This plan is misguided, as these attorneys lack experience with indigent populations and do not understand trauma-informed representation. The notion that any client deserves to be represented by someone who views this work as a temporary diversion is indicative of a system that undervalues the expertise and dedication of public defenders.

We are at a critical juncture, and once again, public defenders are appealing to this court for action to protect our health, safety, and sanity, as well as that of our clients who deserve effective counsel. The crisis we face is ongoing, catastrophic, and tragic. Many are struggling with mental health issues, addiction, and personal crises as they attempt to meet impossible demands.

The situation has reached a breaking point, but the most humane and effective solution is to fully fund public defense and implement recommended caseload standards without delay. The job market is strong, and if these conditions persist, talented and experienced defense attorneys will continue to choose to leave public defense altogether. It is not only a moral obligation to act but also a constitutional mandate that must be addressed to prevent further harm to both attorneys and their clients. The time to act is now, and failure to do so will lead to greater costs, both human and financial, in the future.

Best,

**Vanessa C. Martin**

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