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To: [Martinez, Jacquelynn](#)
Subject: FW: Proposed Public Defense Caseload Standards
Date: Tuesday, August 27, 2024 9:24:05 AM

From: Sichel, Whitney (DPD) <whitney.sichel@kingcounty.gov>
Sent: Tuesday, August 27, 2024 9:22 AM
To: OFFICE RECEPTIONIST, CLERK <SUPREME@COURTS.WA.GOV>
Subject: Proposed Public Defense Caseload Standards

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Hello,

I am writing to voice my strong support for adoption of the proposed amendments to CrR 3.1 as submitted by the Washington State Bar Association and the Council on Public Defense.

I have been a public defender in King County for 12 years- the entirety of my career since graduating law school. I currently supervise a felony unit at the King County Department of Public Defense. The team of attorneys I supervise has ranged between 6 and 10 attorneys handling felony caseloads.

I came to work as a public defender in King County because our public defense agencies were known nationally to provide some of the highest quality representation to indigent clients. Still, as soon as I arrived in the office, I saw constant turnover of smart, dedicated attorneys who, despite their best efforts, could not find a way to balance the demands of the job with any kind of life outside of work. In particular, this issue seemed to affect women and BIPOC attorneys, who continue to shoulder the bulk of family and debt-related obligations outside of the workplace. The conversation around why attorneys were suffering and why they were leaving always came down to the exact same issue: too many cases and not enough hours in the day to work them to even a legally adequate level, and certainly not to the high level of practice that so many of these attorneys were capable of. If a person were to be a fly on the wall of our public defender's office on any given day, in any given year since I've been practicing, the conversation was always the same: too many cases and no recognition of the actual hours it takes to do even the bare minimum of constitutionally effective representation. Attorney burnout and attrition isn't the only negative consequence of this problem. Overwhelming caseloads have also undoubtedly led to innocent people pleading guilty to get out of jail faster or attorneys making mistakes that cost our clients their job, their housing, their freedom, or even their life.

This problem has only increased over time. In the past three years, turnover of attorneys has

increased to levels which I have personally never seen before in my career. When I talk with attorneys about why they are leaving, I receive invariably the same answer: caseloads are too high. On top of that, discovery (evidence) has gotten significantly more voluminous, and (for good reason) the system has started the welcome process of narrowing down felony filings to focus on more serious crimes. While we should all be happy to see more low-level cases being diverted out of the felony system, that also means that the caseload standards currently in place, which were already unbearable for most felony attorneys, haven't adapted to the reality that most of the cases we are handling now are the most serious and time-consuming. Adding to the problem, when one attorney leaves and has to pass their caseload to another attorney (who already has their own existing caseload), work progress on all cases grinds to a halt, things get missed, and mistakes get made. Ultimately, more attorneys leave because the stress of absorbing the additional work is too much to bear.

Most attorneys that leave our office are simply leaving the profession of public defense altogether, and taking other legal jobs that offer similar pay with more "normal" hours and manageable amounts of work. Again, this has been particularly true for women and BIPOC attorneys. I have counseled many attorneys through the difficult choice of having to prioritize their own family, mental health, and happiness over this job that they love but cannot sustain. This choice is often unavoidable, because there is truly no other way to manage the existing caseloads than to leave the practice of public defense altogether.

I have been following some of the discussion of the proposed caseload standard amendments, and in particular I have seen and heard some comments in opposition from prosecutors and judges. To be honest, I was appalled by their opposition and found it highly disingenuous. What I heard came down to two main arguments: (1) they acknowledge that updating the caseload standards would likely improve public defense attorney retention and client representation, but since it won't solve every problem affecting case resolution speed in the criminal system it's not worth doing, and (2) they also need funding for their own agencies and are afraid that funding public defense will take away from that. As an attorney, I think the logical fallacy in the first argument is apparent. The proposed amendments to the caseload standards are not intended to solve every problem in the criminal legal system, but they are intended to improve attorney retention and client representation, which necessarily improves the functioning of the system as a whole. It also leads to fairer outcomes of cases, is constitutionally required, and is *morally the right thing to do in a society that purports to care about all of its citizens*. As to the second argument, if prosecutors and judges desire more funding for the improvement of their own agencies, they certainly can and should advocate for such funding. But focusing their fears about limited resources only towards opposing funding for public defense belies a deeper bias (at worst) or misunderstanding (at best) about the value that public defense work brings to the criminal legal system and to our community as a whole. Further, it is worth highlighting the workload control of prosecutors compared to public defenders. Public defense offices have no control over the number of cases coming into the system; we have to represent the clients who can't afford to pay for a lawyer. In stark contrast, prosecutor's offices choose what cases they will file and when they file them. Our problem in public defense has not recently been solely one of funding; instead, we have too many open positions with not enough attorneys willing to fill them. Attorneys do not want to come into this work because they know exactly what to expect. The same reason that existing attorneys are leaving- the caseloads are too

high.

The proposed amended caseload standards are based on real-world data about how many hours it actually takes to work these criminal cases. Public defense work will always be hard and time-consuming and emotional, but under the new caseload standards it will at least be logistically achievable. There are many attorneys and law students out there who wish to do this work, but if we fail to create a system that makes it a viable career choice, they will continue to make the exceedingly rationale choice to find more personally sustainable jobs.

Being a public defender has been one of the great joys and passions of my life. The biggest piece of that has been the privilege of knowing and representing my clients; the other piece has been working with and learning from my talented colleagues. Under the current caseload standards, both groups are suffering. The current system is not sustainable or ethical, and things will not improve without caseload relief. I strongly urge this Court to adopt the proposed amendments to CrR 3.1.

Sincerely,
Whitney Sichel

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