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March 14, 2024

Seattle Times Editorial Board

via Email only: oped@seattletimes.com

Re: Public Defense Caseload Standards

Dear Editor:

I have been the elected Island County Prosecuting Attorney since 1999. I am a past president of the Washington Association of Prosecuting Attorneys. I have been on the Board of Directors of the National District Attorneys Association since 2017. The opinions in this essay are my own, and not necessarily those of the associations I proudly serve.

The State Bar Association's newly adopted caseload limit for public defenders is a Trojan horse deployed by groups interested in wholesale decriminalization. They failed to achieve their goal in the legislature, where bills are debated and voted on by people with diverse viewpoints. Undaunted, the proponents now plan to attack their target from within, asking the Supreme Court to enshrine the outlandish caseload standards as enforceable court rules. If adopted, the interest groups will achieve their objective of massive and indiscriminate decriminalization by breaking the back of an already strained criminal justice system.

The inability to recruit and retain lawyers to work as prosecutors and public defenders afflicts every county in Washington and most counties across the nation. Your March 13, 2024, article correctly pointed out that we have already seen, under existing caseload caps, criminal defendants languishing while counties scramble to find legal representation for them. Some judges have dismissed serious criminal charges because defense attorneys could not be found quickly enough.

Passing a rule that drastically shrinks the maximum number of cases a defender can handle in a year is like shortening your bucket's rope when the well is going dry. It will have two certain results: (1) a great many people charged with crimes will be deprived of their constitutional right to counsel; and (2) crime victims and the public will suffer as many more cases are dismissed and crimes go uncharged. Some proponents of the unjustifiable caseload caps have acknowledged that these are likely outcomes. They do not appear distressed by that fact. Some have even openly expressed support for this unavoidable fallout, providing some insight into their true motives.

The Supreme Court will provide an opportunity for public comment before considering the caseload maximums for adoption. Civil libertarians and public safety advocates alike should be

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shocked by this troubling proposal. I urge you to weigh in. Let the Supreme Court hear voices other than the ones advancing this reckless plan that will crush the criminal justice system and deprive criminal defendants of their rights.

I also take this opportunity to correct an error in the *Times* article, which asserted the current defender caseload standards "dated to the 1970s and 1980s." I've heard this falsehood repeated in other news outlets. I served on the Bar Association's Council on Public Defense in 2010-2011, when it adopted Washington's very first defender caseload standards. The Supreme Court approved them as enforceable court rules in October, 2012, not the 1970s. No doubt the people behind this calamity-in-the-making believed a fifty-year gap would enlist more support than if the public knew that the existing standards are only twelve years old.

Sincerely,

Gregory M. Banks
Island County Prosecuting Attorney