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**SUPREME COURT OF THE STATE OF WASHINGTON**

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STATE OF WASHINGTON,

Respondent,

v.

MICHAEL LEON SHEMESH,

Petitioner.

**FILED**  
JUL 29 2015

CLERK OF THE SUPREME COURT  
STATE OF WASHINGTON

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**MEMORANDUM OF AMICI CURIAE WACDL AND ACLU IN  
SUPPORT OF REVIEW PURSUANT TO RAP 13.4(h)**

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**FILED**

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## **I. IDENTITY AND INTEREST OF AMICI**

The identity and interest of amici are set forth in the motion for leave to file amicus curiae memorandum.

## **II. ISSUE ADDRESSED BY AMICUS**

Review should be granted because of the significant constitutional rights and public interests at stake when a systemic breakdown in a county's public defense system causes a criminal defendant to be incarcerated for more than three years awaiting trial.

## **III. FACTS RELEVANT TO REVIEW**

Michael Leon Shemesh was charged on August 4, 2009, with three counts of rape and sexually explicit conduct with children. CP 1-3. Two of the counts were alleged to have occurred in 2006. *Id.* Tonya Meehan-Corsi was the first of five attorneys appointed as defense counsel by the county. *State v. Shemesh*, 347 P.3d 1096, 1098 (Wash. Ct. App. 2015). On August 19, 2009, a bail hearing was held. Defense counsel argued for lower bail since Shemesh lived and worked in the community, had no prior criminal convictions, and could not raise \$75,000. The Judge set the bail at \$40,000. 8/19/09 RP 1-3.

The next day, the State added two more counts, one of which was alleged to have occurred in 2001. CP 11. On September 9, 2009, the State added another count, also alleged to have occurred in 2001, and asked the

Court to raise the bail to \$100,000. CP 16, 9/9/09 RP 2-4. Defense counsel opposed the increase but the trial judge increased the bail to \$100,000. *Id.* It does not appear that any one of Shemesh's four subsequent attorneys – appointed over the next 39 months – ever again sought a reduction in bail, meaning Mr. Shemesh remained incarcerated.

An initial delay was occasioned by the *State's* "motion" for a "mental health evaluation."<sup>1</sup> By November 12, 2009, Dr. Trevor Travers had reported that Shemesh was competent and sane. However, without court order, he also offered that Shemesh presented a "substantial danger to other persons." CP 30. Dr. Travers appears to have only administered the Miller test; neither he, nor anyone else, administered a validated risk assessment tool.

Mr. Shemesh's attorney then asked for another "mental health evaluation." CP 50-55. The subsequent report suggests that Shemesh was referred for the evaluation, not because he did not understand the plea or trial process, but because he and his attorney were in disagreement regarding how the case should proceed.

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<sup>1</sup> The word motion is in quotation marks because the record does not contain any motion, memorandum or supporting declaration supporting the order for examination contained in the clerk's papers. CP 19-27.

On the eve of trial, however, Mr. Shemesh's attorney withdrew from the case because her contract with the county expired. 2 RP 165-66. The second appointed attorney, Mr. Sant, was permitted to withdraw because he learned that the Benton County Office of Public Defense (OPD) only paid flat rates instead of the hourly rate he requested. 2 RP 264-65. Currently, Benton County pays only \$1,247.46 total compensation for representation for a Class A felony like those at issue in Shemesh's case.<sup>2</sup> If the case goes to trial, the attorney is entitled to an additional \$400 per diem. *See* Appendix 1.

The third appointed lawyer, Mr. Swanberg, delayed entry of an order of competency and asked for numerous continuances, despite the fact that he did not have Mr. Shemesh's complete file. 2 RP 9-10. Finally, after months of such problems, Shemesh made a motion for new counsel, which was granted.

The fourth appointed attorney, Mr. Metro, took months to view the evidence and belatedly asked for the appointment of an expert. By this time Mr. Shemesh had been in jail awaiting trial for two years. *Id.* at 256-275. On August 17, 2011, Mr. Metro reported that OPD had refused to approve funds for all the experts he requested. Mr. Metro was removed

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<sup>2</sup> It is not entirely clear, but it appears that this fee is per cause number and not per count.

from the case by the Office of Public Defense in order to rebalance his excessive caseload. *Id.* at 276-78. The reassignment was made without consulting either with Mr. Metro or Mr. Shemesh.

The fifth appointed counsel, Mr. Holt, continued the case another 16 months. Mr. Holt brought a motion to dismiss for violation of Shemesh's right to a speedy trial and for governmental mismanagement. CP 498-517. He argued that Mr. Eric Hsu, the director of the Benton County OPD had been

directly involved in the removal and transition of counsel on at least three of the occasions and that his decisions were arrived at without consulting the defendant or defense counsel and were based upon economic considerations, not legal considerations regarding effective representation of the defense (*sic*).

CP 499.

At the hearing on the motion to dismiss, Holt called Ms. Meehan-Corsi, Mr. Swanberg, Mr. Metro, and Mr. Hsu. 11/9/12 RP 157-311. These lawyers discussed the difficulty in obtaining expert services given the "cap" on payments imposed by the County. *Id.* at 164, 245. Apparently, Benton County OPD paid less than \$1,000 for a mental health evaluation. *Id.* at 164-65. Ms. Meehan-Corsi testified that OPD did not consult with her before reassigning her cases and she received little guidance from OPD during the transition. *Id.* at 166-68.



Mr. Swanberg testified that he made no requests for expert assistance. *Id.* at 192. There were also delays due to restrictions imposed on discovery, including requiring that Mr. Shemesh view some of the evidence only in the presence of a police detective and the trial court refusing to order the State to produce a transcript of the videos. *Id.* at 183, 207, 209. Mr. Swanberg was not consulted when the case was transferred to new counsel. *Id.* at 190.

Mr. Metro testified that he was removed from the case in the following manner:

The Office of Public Defense decided that the panels were imbalanced and they wanted me to move from Wednesday cases to Thursday cases. And they appointed 35 or more cases to me in one month and moved me from calendar to another. And then took cases I had and assigned them to other lawyers.

*Id.* at 222. He had no discussion with OPD about which cases were transferred. *Id.*

Mr. Hsu testified that he was a former prosecutor and police officer. *Id.* at 260-62. Prior to his appointment as director of OPD he had no experience as a public defender. *Id.* at 262. A declaration and supporting documentation regarding Mr. Hsu's undisclosed conflict of interest in the case were presented. While serving as OPD director, Hsu also ran a consulting firm called Safe Kids Consulting. CP 506. In that

role he attempted to “educate parents, educators and professionals” about how to foil child predators. *Id.* In 2010, his business had revenue of \$80,000. CP 516. The defense argued that this conflict should have been disclosed to Mr. Shemesh, who was charged with a sexual offense against a child, when Mr. Hsu was “solely responsible for making funding decisions regarding the defense of individuals charged with sex offenses, to include the hiring of experts and investigators.” CP 500.<sup>3</sup>

The trial judge denied the speedy trial motion and declined to consider the evidence regarding Mr. Hsu. CP 502.

Mr. Shemesh appealed and argued that his constitutional right to a speedy trial had been violated by a “systemic breakdown in the public

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<sup>3</sup> During the period Mr. Holt was trying this case, he too was involved in a contract dispute with Benton County.

Three Benton County public defenders – Scott Johnson, Dan Arnold, and Kevin Holt – engaged in a two-month contract dispute in light of the new caseload limits. The dispute’s resolution cost the county nearly \$48,000 to pay the remainder of the attorneys’ contracts and fees. The attorneys felt that they were already “grossly underpaid” for their work, and that caseload limits would reduce even that compensation. Three other attorneys resigned from Benton County around the same time. While Benton County already limited its public defense attorneys to 150 felony cases per year, the limitations on private practice appeared to be the cause of the attorneys’ dissatisfaction. At one point, only four attorneys remained on the defense panel to represent indigent clients in Benton-Franklin Counties, though positions were quickly filled.

Andrea Woods, *The Undersigned Attorney Hereby Certifies: Ensuring Reasonable Caseloads for Washington Defenders and Clients*, 89 Wash. L. Rev. 217, 243 (2014) (footnotes omitted).

defender system.” Appellant’s Opening Brief at 1. The Court of Appeals rejected his argument because it concluded

... the delays were mainly caused by Mr. Shemesh’s conduct in asking for them. ... None of the delays are attributed to the State.

*Shemesh*, 347 P.3d at 1102.

#### **IV. REVIEW SHOULD BE GRANTED DUE TO THE SIGNIFICANT PUBLIC INTEREST IN THE CONSTITUTIONALITY OF PUBLIC DEFENSE SYSTEMS**

While the issue raised here is the constitutional right to a speedy trial, that right is also intertwined in this case with the constitutional right to counsel. In determining whether Shemesh’s constitutional right to a speedy trial was violated, a careful assessment of the reasons for the delay is necessary. *State v. Ollivier*, 178 Wn.2d 813, 831, 312 P.3d 1, 13 (2013), *cert. denied*, 135 S.Ct. 72, 190 L.Ed.2d 65 (2014). The United States Supreme Court has stated:

The general rule attributing to the defendant delay caused by assigned counsel is not absolute. Delay resulting from a systemic “breakdown in the public defender system,” could be charged to the State.

*Vermont v. Brillon*, 556 U.S. 81, 94, 129 S.Ct. 1283, 1292, 173 L.Ed.2d 231 (2009) (citations omitted).

This Court should accept review because this case presents an egregious example of pretrial delay caused by “systemic breakdown in the

public defender system.” The record shows the reason for the pretrial delay in this case is a county public defense system in disarray, leading to Mr. Shemesh being held in pretrial detention for 40 months. The record shows the attorneys chosen by the county failed to object to unnecessary competency evaluations and ordered unnecessary ones themselves, failed to safeguard Mr. Shemesh’s right to remain silent, and failed to diligently investigate and move his case towards trial. And the county’s office of public defense failed to control contractor’s caseloads, failed to approve expert expenditures, and failed to fairly compensate counsel for a six-count felony sexual assault trial. And, perhaps most significantly, the county had no concern for continuity of representation, assigning five different attorneys to represent Mr. Shemesh without regard to the negative impact on the defense and on the attorney-client relationship.<sup>4</sup>

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<sup>4</sup> See, NLADA Guidelines for Legal Defense Systems in the United States 5.11 Continuity of Representation: “Defender offices should provide for continuous and uninterrupted representation of eligible clients from initial appearance through sentencing ...” <http://www.mynlada.org/defender/DOJ/standardsv1/v1b.htm>. Several courts have concluded once an attorney is appointed, the court should be just as hesitant to remove them as it would be to remove a privately-retained attorney. See, e.g., *State v. McKinley*, 860 N.W.2d 874, 880 (Iowa 2015); *United States v. Myers*, 294 F.3d 203, 206 (1st Cir.2002) (“Once a court appoints an attorney to represent an accused ... there must be good cause for rescinding the original appointment and interposing a new one.”); *Lane v. State*, 80 So.3d 280, 295 (Ala.Crim.App.2010), cert. quashed, 80 So.3d 303 (Ala.Crim.App.2011), cert. denied, 132 S.Ct. 1144, 181 L.Ed.2d 1030 (2012) (“With respect to continued representation, ... there is no distinction between indigent defendants and nonindigent defendants.”); *People v. Harlan*, 54 P.3d 871, 878 (Colo.2002) (“A defendant’s desire for continued representation by a court-appointed public defender is ‘entitled to great weight.’ ... [A]n indigent defendant has a presumptive right to continued

Attorneys were appointed or removed because the Benton County OPD was incapable of maintaining a functional public defense system.

The failure of Benton County to provide stable, competent, adequately compensated and independent counsel is of significant public interest. In 2013 Judge Robert Lasnik found that indigent criminal defendants in Mount Vernon and Burlington were systematically deprived of the assistance of counsel at critical stages of the prosecution because municipal policymakers made deliberate choices regarding the funding, contracting, and monitoring of the public defense system that directly and predictably caused the deprivation. *Wilbur v. City of Mount Vernon*, 989 F.Supp.2d 1122, 1124 (2013). Courts around the country have recognized the same thing. *Lavallee v. Justices in the Hampden Superior Court*, 442 Mass. 228, 231-32, 812 N.E.2d 895, 901 (Mass. 2004) (holding that in the context of systemic inadequacy of counsel “a defendant may not be held more than seven days and the criminal case against such a defendant may not continue beyond forty-five days); *State v. Young*, 143 N.M. 1, 6, 172 P.3d 138, 143 (N.M. 2007) (reviewing cases from across the county

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representation by court-appointed counsel absent a factual and legal basis to terminate that appointment.” (quoting *Rodriguez v. Dist. Ct.*, 719 P.2d 699, 707 (Colo.1986)); *People v. Burton*, 28 A.D.3d 203, 811 N.Y.S.2d 663, 664 (2006) (reversing a conviction and granting a new trial because the trial court “deprived [the] defendant of the right to continued representation by assigned counsel with whom he had formed an attorney-client relationship”).

dealing with systemic deficiencies in indigent defense and noting that they all recognize “the courts’ exercise of inherent authority to ensure that indigent defendants receive constitutionally adequate assistance of counsel”). The same is true in this case.


This Court has taken significant steps to insure proper caseloads and adequate compensation for public defenders around the state in order to avoid this kind of systemic failure. *See* CrR 3.1 Standards and Andrea Woods, *The Undersigned Attorney Hereby Certifies: Ensuring Reasonable Caseloads for Washington Defenders and Clients, supra*. Rulings like that of the Court of Appeals here, absolving the government of its responsibility to run a constitutional public defense system, undermine this Court’s efforts. This Court should take the opportunity to reaffirm a statewide commitment to firm standards for the provision of public defense and hold jurisdictions accountable for their failure to meet the guarantees of Wash. Const. Art. 1 § 22 and the Sixth Amendment.

## V. CONCLUSION

This Court should grant Shemesh’s petition for review on this important issue.

DATED this 17th day of July, 2015.

Respectfully submitted,

  
Suzanne Lee Elliott, WSBA #12634  
WA CDL Amicus Co-Chair

Nancy L. Talner, WSBA #11196  
ACLU of Washington Foundation

Harry Williams IV, WSBA #41020  
ACLU Cooperating Attorney

**CERTIFICATE OF SERVICE**

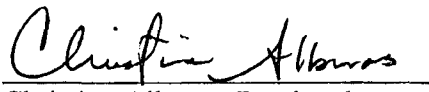
I hereby certify that on the date listed below, I served by First Class United States Mail, postage prepaid, one copy of the foregoing document on the following:

Mr. Michael L. Shemesh #362748  
Clallam Bay Corrections Center  
1830 Eagle Crest Way  
Clallam, Bay, WA 98326

Mr. Andrew K. Miller  
Benton County Prosecuting Attorney  
7122 West Okanogan Place  
Kennewick, WA 98336

Ms. Marie J. Trombley  
Attorney at Law  
PO Box 829  
Graham, WA 98338

July 17, 2015  
Date

  
Christina Alburas, Paralegal

**Benton & Franklin Counties  
Office of Public Defense  
Superior Court Public Defense**

**Request for Qualifications**

The Benton & Franklin Counties Office of Public Defense seeks statements of qualifications from qualified attorneys to provide public defense services in its Benton County Superior Court Defense Unit.

**Summary**

- For all felonies in Superior Court except for homicides and persistent offender cases
- **RFQ application deadline of May 29, 2015 (but interviews and even contract awards may be made as applications are received so early application is encouraged).**
- Contract compensation of **\$623.73 (2015 rate) per case credit** (see details for case credit calculation) amounting to up to **\$90,440.85 a year** compensation
- Trial per diem of **\$400 per day** in trial (\$200 for half days)
- Annual caseload maximum of up to 145 cases
- **One contract** to be awarded
- Contract period to be **July 1, 2015 – December 31, 2017**

**How to Apply**

**Before applying, please make sure to read this RFQ announcement in its entirety. Any questions should be addressed in writing to: [OPD@co.benton.wa.us](mailto:OPD@co.benton.wa.us).**

If you meet the Minimum Qualifications, then you are invited to apply for this RFQ in the following manner:

All qualified applicants are invited to apply by submitting the following materials to the contact listed below by the RFQ close date:

1. A completed RFQ Application Form (attached)
2. A letter of interest providing any background, experience or professional accomplishments that the applicant wishes to be considered
3. A current resume
4. A copy of current malpractice and commercial general liability insurance meeting insurance requirements (see Required Qualifications for details)

Benton & Franklin Counties Office of Public Defense  
7122 W Okanogan Pl, Bldg A  
Kennewick, WA 99336

E: [OPD@co.benton.wa.us](mailto:OPD@co.benton.wa.us)

P: (509) 222-3700

W: [BentonFranklinDefense.org](http://BentonFranklinDefense.org)

**Appendix 1**



5. (Optional) letters of reference from listed professional references

#### Contract Holders

Applicants who currently hold public defense contracts with the Benton & Franklin Counties Office of Public Defense only need to fill out the shortened version of the RFQ Application Form (see form for details). All other materials listed for Non-Contract Holders is optional.

**All RFQ applications must be physically received by 5 PM, May 29, 2015**

**Benton County reserves the right to review applications and award contracts as they are submitted so early application is strongly encouraged.**

**Electronic submission is strongly encouraged and may be emailed to: [OPD@co.benton.wa.us](mailto:OPD@co.benton.wa.us) (please indicate "RFQ Response – BCSC Public Defense Contracts") in subject line of email application.**

**Contact information for mailed applications and for any questions is as follows:**

**Eric Hsu, Public Defense Manager  
Benton & Franklin Counties Office of Public Defense  
7122 W Okanogan Pl, Bldg A  
Kennewick, WA 99336  
[OPD@co.benton.wa.us](mailto:OPD@co.benton.wa.us)**

## **Background**

**Background:** Benton County provides indigent defense services through the Bi-County Benton & Franklin Counties Office of Public Defense. Most indigent defense services for Benton County Superior Court are provided via contract personnel. Superior Court criminal dockets in Benton County are also divided between two docket days, one on Wednesdays and one on Thursdays. Contract public defenders are responsible for regularly appearing on the docket to which they are assigned (ie Wednesdays or Thursdays) where pending cases in their pre-trial stages are addressed, and also where some new cases are arraigned and assigned directly to public defenders.

Since the Benton County Prosecutor's Office is increasing its staffing of felony prosecutors by one prosecutor effective July 1, 2015 (or soon thereafter), Benton

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P: (509) 222-3700

W: [BentonFranklinDefense.org](http://BentonFranklinDefense.org)

County intends to award one additional Superior Court public defense contract to ensure relatively equal staffing between prosecutors and defenders.

## Contract Details

### Number and Effective Dates of Contracts

Benton County anticipates awarding **1 contract** at this time.

### Eligibility

All attorneys admitted to practice law in the State of Washington who meet the Required Qualifications (stated below) and who have, or are prepare to establish, a private law office with access to confidential meeting facilities within the Tri-cities metropolitan area (Richland, Kennewick or Pasco) or otherwise within 10 miles of the Benton County Justice Center in Kennewick are eligible and invited to apply.

### Compensation Plan

Base compensation is a flat rate of **\$623.73 per Case Equivalent** (see chart below for Case Equivalent calculations). This rate is subject to increase at the same rate as the Cost of Living Allowance granted to non-bargaining unit Benton County employees for any given year when the contract is in force.

In addition to the base compensation, contractors also receive a trial *per diem* of \$400 per full day of trial and \$200 per half day and are reimbursed for all case related out-of-pocket expenses<sup>1</sup> (pre-approval required) including expenses for any necessary travel.

Contractors are never responsible for the cost of conflict counsel, defense investigators, or other experts and professionals necessary for the defense of a case. Those expenses are separately requested, approved, and paid for, through the Office of Public Defense.

Base compensation is payable upon case appointment and conflict check. Other compensation is payable upon incurring and filing of a Claim for Compensation (usual billing cycle is 30 days). Contractors must file Claims for Compensation using approved forms within billing timeframes (usually within 60 days of incurring expense or becoming eligible for additional compensation) in order to be compensated.

### Case Equivalent Calculations

Case Equivalents, for purposes of compensation, are calculated as follows:

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<sup>1</sup> Office overhead expenses or other expenses inherent in the practice of law are excluded from eligibility for reimbursement.

Benton & Franklin Counties Office of Public Defense  
7122 W Okanogan Pl, Bldg A  
Kennewick, WA 99336

| Type of Case                                  | Case Equivalents                  |
|---|-----------------------------------|
| Class B and Class C felonies                  | 1.0                               |
| Class A felonies                              | 2.0                               |
| Cases with unusually high level of complexity | Up to 2.0 additional <sup>2</sup> |
| Conflict withdrawals                          | Up to 0.5 <sup>3</sup>            |
| Preliminary appearance docket coverage        | 0.25 <sup>4</sup>                 |
| Post-conviction matters                       | 0.33                              |

***Homicide and Persistent Offender (either felony “third strike” or sex offender “second strike cases where the potential of a life-without-parole sentence is possible on the current case) are not assigned to holders of contracts awarded pursuant to this RFQ. Such cases are assigned to attorneys who hold Homicide Defense Unit contracts that are awarded separately from the contract contemplated by this RFQ. The awarding of a contract under this RFQ DOES NOT preclude a given attorney from applying for, and being awarded, a Homicide Defense Unit contract when such contracts come available for RFQ.***

### **Maximum Caseload**

Successful applicants who accept contract offers will have the option of choosing the maximum *number of actual cases* they wish to be appointed in every calendar year, mindful of the caseload maximums and limitations on private practice for contract public defenders imposed by the Washington State Supreme Court. Contract caseload maximums will be based on *actual cases* and not Case Equivalents (which are only used for calculating compensation). For example, a Class A felony appointment is worth two Case Equivalents and therefore will entitle a contractor to 2.0 Case Equivalents of compensation, or \$1,247.46. However, it will only count as *one additional case* toward the appointed contractor's annual caseload maximum both for contractual caseload maximum purposes and (since Benton County does not use a weighting system for Superior Court cases) for purposes of certifying to Caseload Standards.

### **Compliance with Public Defense Standards and Laws**

<sup>2</sup> Additional Case Equivalents are intended only for the rare case with exceptionally complex fact pattern, resource needs or expert involvement and are awarded at the sole discretion of the Public Defense Manager or designee.

<sup>3</sup> Case Equivalents, ranging up to 0.5, can be awarded on a case-by-case basis in situations where there is a withdrawal before Omnibus is fully satisfied.

<sup>4</sup> As needed. This docket is ordinarily covered by Office of Public Defense staff attorneys.

Benton & Franklin Counties Office of Public Defense  
7122 W Okanogan Pl, Bldg A  
Kennewick, WA 99336

All applicants awarded contracts pursuant to this RFQ are solely and personally responsible for familiarizing themselves and complying with all public defense standards and legal requirements associated with the practice of law in the State of Washington. This includes Washington State Public Defense Standards as adopted by the Washington State Supreme Court and codified in court rules in the "Standards for Indigent Defense" (SID) section; Benton County's Public Defense Ordinance; and the Rules of Professional Conduct (RPCs).

Benton County provides the following support to contractors to assist them in complying with public defense standards and applicable laws:

- Free, local CLEs approved by the State Office of Public Defense and WSBA
- Access to no-cost subscriptions to JIS-LINK (allowing computerized access to Superior Court and District Court computerized records)
- Access to LEXIS-NEXIS services at the very low government rates
- Access to confidential meeting rooms at the Justice Center campus that meet the requirements of Supreme Court adopted public defense standards
- Access to a comprehensive law library at the Justice Center and at Columbia Basin College

#### **Scope of Services:**

The services contemplated by this RFQ consist of all aspects of criminal defense of persons charged with crimes in Superior Court. The successful candidate would be responsible for fully, completely, and diligently representing criminal defendants according to standards set by applicable statutes, caselaw and the Rules of Professional Conduct. Examples of responsibilities include, but are limited to:

- Investigating or otherwise making appropriate inquiry into the facts of given cases
- Consulting with defendants, advising of the nature of charges, discussing possible resolutions, formulating defenses, and preparing for trial if appropriate
- Conferring and negotiating with prosecuting attorneys about cases
- Attending any and all court appearances pertaining to assigned cases including but not limited to arraignment, pretrial hearings, omnibus, trial, sentencing and restitution hearings
- Retaining and supervising the services of experts and/or investigators as appropriate
- Researching legal issues, and filing and arguing motions as appropriate

## **Qualifications**

Benton & Franklin Counties Office of Public Defense  
7122 W Okanogan Pl, Bldg A  
Kennewick, WA 99336

## Required Qualifications

- Active membership (in good standing) in the Washington State Bar;
- At least one year full-time experience either as a criminal prosecutor or criminal defense attorney;
- Must have tried at least two felony matters to juries either as a criminal prosecutor or criminal defense attorney, either as first or second chair (with significant involvement – “observer only” second chair trials do not count toward these minimum qualification standards);
- Familiarity with Washington criminal statutes in particular pertaining to felony crimes, Superior Court criminal rules, constitutional provisions, and key case law;
- Familiarity with collateral consequences of felony criminal convictions in general under both State and Federal law as well as specific collateral consequences of common crimes (including, but not limited to, sex offender registration, driver’s license suspension, security clearance revocation and firearm offender registration);
- Familiarity with mental health issues including knowledge of when need to obtain expert services is triggered;
- Familiarity with immigration consequences of felony arrests and convictions to the degree required by *Padilla v. State of Kentucky*.
- **Must have excellent caseload management skills that are appropriate for a caseload of the size anticipated by this RFQ;**
- **Familiarity with, and ability to certify to, indigent defense standards as applicable to Superior Court cases and as;**
- **Either currently insured or able to procure insurance meeting following parameters:**
  - **Malpractice insurance in the amount of \$1 million per occurrence, \$1 million general aggregate and a deductible of no less than \$10,000**
  - **Commercial general liability insurance in the amount of \$1 million per occurrence, \$2 million general aggregate**
- **Demonstrated commitment to public defense and service to indigent clients;**
- **Willingness and ability to meet with appointed clients (including clients incarcerated in the Benton or Franklin County jails) within 72 hours of appointment;**

## Desirable

Benton & Franklin Counties Office of Public Defense  
7122 W Okanogan Pl, Bldg A  
Kennewick, WA 99336

- Working knowledge of prosecution practices in Benton Counties, particularly in the Benton County Prosecutor's Office
- Working knowledge of Superior Court procedures in Benton County

All parties responding to this Request for Qualifications, by their submission of any application material, agree to be bound by the following terms and conditions.

*This request for qualifications constitutes a request for interested parties to provide notice of their interest and a summary of their qualifications only. This is not an offer to any particular person or to the general public and cannot be accepted so as to create a contract binding upon Benton County, its elected officials, employees or agents. Only upon execution of a contract whether pursuant to this RFQ or otherwise, will Benton County have any contractually binding obligations. Benton County reserves the right to change the terms and conditions of either this request for qualifications (including timeframes, deadlines and any other aspect it deems appropriate to change) or the terms and conditions of the contract to be offered, with or without notice and without recourse by applicants or any other party alleged in any way to be negatively affected.*

Benton & Franklin Counties Office of Public Defense  
7122 W Okanogan Pl, Bldg A  
Kennewick, WA 99336

E: [OPD@co.benton.wa.us](mailto:OPD@co.benton.wa.us)

P: (509) 222-3700

W: [BentonFranklinDefense.org](http://BentonFranklinDefense.org)

## OFFICE RECEPTIONIST, CLERK

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**From:** OFFICE RECEPTIONIST, CLERK  
**Sent:** Friday, July 17, 2015 4:03 PM  
**To:** 'Christina Albouras'  
**Cc:** Suzanne Elliott; talner@aclu-wa.org; harry@harrywilliamslaw.com  
**Subject:** RE: State v. Michael Shemesh, No. 91750-7

Received 7-17-15

Supreme Court Clerk's Office

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**From:** Christina Albouras [mailto:calbouras@hotmail.com]  
**Sent:** Friday, July 17, 2015 4:02 PM  
**To:** OFFICE RECEPTIONIST, CLERK  
**Cc:** Suzanne Elliott; talner@aclu-wa.org; harry@harrywilliamslaw.com  
**Subject:** State v. Michael Shemesh, No. 91750-7

July 17, 2015

Dear Clerk:

Attached for filing in *State v. Michael Leon Shemesh*, No 91750-7, is Motion for Leave to File Amicus Curiae Memorandum in Support of Petition for Review and Memorandum of Amici Curiae WACDL and ACLU in Support of Review Pursuant to RAP 13.4(h). Please contact me with any questions. Thank you for your kind assistance.

Sincerely,  
Christina Alburas  
Certified Paralegal  
(206) 538-5301  
\* \* \* \*

Law Office of Suzanne Lee Elliott  
Suite 1300 Hoge Building  
705 Second Avenue  
Seattle, WA 98104  
Fax (206) 623-2186

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