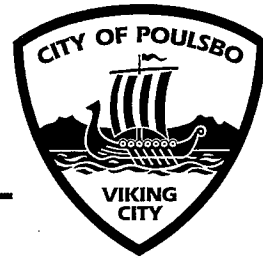


City of Poulsbo

Office of Mayor Kathryn H. Quade



21 April 2008

Clerk of the Supreme Court
P.O. Box 40929
Olympia, WA 98504-0929

E-Mail: Camilla.Faulk@courts.wa.gov

Subject: Unnecessary burden that proposed court rule CrRLJ 4.1 would place on our city and courts.

The City of Poulsbo opposes the fiscal impacts to the city budget and extra hearings and staff time that these significant new rules would mandate. While there have been some indiscretions by a very, very few judicial officers that prompted these proposed court rules I don't believe that is the case overall. The court rule, as written, would require the city to provide an attorney to all defendants regardless of their ability to pay at any significant hearing. Examples of significant hearings would be arraignment, bail setting, plea, sentencing, revocation. Why would many of them then expend the funds to hire an attorney if they can get one provided free? We would have to spend considerably more for public defense. Would we need two public defenders on a court day vs. one in order to meet everyone's needs to proceed? The rule also requires that the court must satisfy itself that the public defender being appointed has demonstrated "proficiency, ability and commitment to quality representation" as set by the Standards for Indigent Defense Services as endorsed by the WSBA. Must the trial court on the record explain how the appointed public defender meets these standards at every appointment? What is the standard – 1 year of experience? Two years? If the judge must make that finding for every hearing it would lengthen our court day – and our expenses for prosecutor and public defender.

Anyone who has a complaint or concern can file a report/complaint on a judicial officer with the Commission on Judicial Conduct <http://www.cjc.state.wa.us>. The failure to sufficiently fund the proposed court rules may leave the judge with no option but to dismiss the criminal prosecution due to failure to comply with the rules.

This will be very costly in a number of ways:

- There is no requirement to find a person indigent before granting them the services of an attorney paid for by the City of Poulsbo
- The public defender will have to conflict out more and we will have to contract for more attorneys. Example: if there are co-defendants the public defender can only represent one of them. If we have a heavy calendar and the public defender cannot adequately represent everyone, would we have to contract for additional attorneys or would the judge appoint an attorney who happens to be in the courtroom if they would take the case? What we pay for public defense is not what a private attorney would charge – would the private attorneys agree to take on these cases knowing that the defendant has the means to hire them at their normal rate?
- It is not uncommon for us to have in custody hearings 5 days a week. We currently only have a prosecutor and public defender here on court days. We would have to provide both if the court

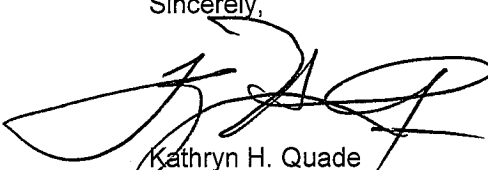
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CLERK

rule goes into effect as currently written. Our costs for public defender and prosecutor would go up. The judge will often release them from custody upon their promise to appear and set it over to a day when we have a prosecutor and public defender.

- We currently do not have a public defender here on Monday nights, which is mainly an arraignment and bench warrant calendar.
- The waiver of counsel must include a judicial finding that the defendant had the opportunity to consult with an attorney present at arraignment. If there is not an attorney present, or the public defender had to conflict out, the case would have to be set over. There is a court rule that states arraignments are to be held within 15 days. The new court rule would change it to 14 days.
- There are a very few charges where the defendant has an option to not appear and just pay a fine. That would no longer be the case.
- Not only will it take more appointed counsel time, it will take more court time.
- For the person who admits they committed the act and just wants to plead guilty – they would now be required to talk to an attorney first – either at their expense or the city's.

I know in Poulsbo Municipal Court our judicial officers make certain the defendant understands his/her rights and the right to an attorney. Our judicial officers continually set cases over to give the defendant the opportunity to talk to an attorney or an assigned public defender. Our judicial officers advise defendants of their right to an attorney and the right to a public defender if they cannot afford an attorney. The problem they're trying to remedy is not one I see in our court.

Sincerely,



Kathryn H. Quade
Mayor

cc: File 1012.08