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November 29, 2011

The Honorable Justice Charles W. Johnson
Chair, Rules Committee
Washington Supreme Court
Temple of Justice
PO Box 40929
Olympia, WA 98504-40929

Re: Comments on Proposed Rule GR 31-A, Access to Administrative Records

Dear Justice Johnson:

The Washington State Office of Public Defense (OPD) appreciates the opportunity to comment on the proposed Court Rule GR 31-A, regarding public access to judicial branch administrative records.

OPD actively participated in the Board for Judicial Administration's (BJA) Public Records Work Group, which developed a balanced recommendation that serves broad public interests. OPD fully supports GR 31-A, and also requests a minor addition to Section (e)(3)(A)(7)(i) "Limitation on Inmate Requests," to specifically include residents of civil commitment facilities for sexually violent predators. The section, with OPD's proposed amendatory language underlined, would read as follows:

- (i) The inspection or production of any nonexempt public record by persons incarcerated in federal, state, local or privately operated correctional facilities, or residing in a civil commitment facility for sexually violent predators, may be enjoined pursuant to this section. The request shall be made by motion and shall be a summary proceeding based on affidavits or declarations, unless the court orders otherwise.

The requested amendment is fully consistent with the intent and purpose of the underlying proposed rule. The amendment merely includes a confined offender population analogous to correctional inmates but not specifically included in the existing proposal.

Since 2009 it has been clear that judicial entities are not subject to the executive branch Public Records Act (PRA), but it has not been clear exactly what standards apply to the judicial branch

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~~in the absence of the PRA.¹ As an agency that would be covered by the proposed rule, OPD~~
believes a court rule is crucial to clarify the obligations of judicial entities as well as to inform
the public of consistent standards and procedures for accessing records in the judicial branch of
government.

On behalf of OPD I urge the Court to adopt GR 31-A with the amendment to Section
(e)(3)(A)(7)(i) as requested above.

Sincerely,



Joanne Moore
Director

c: Judge Marlin Appelwick, Chair of the BJA Public Records Work Group

¹ See *City of Federal Way v. Koenig*, 167 Wn.2d 341, 217 P.3d 1172 (2009).