

WASHINGTON STATE BAR ASSOCIATION

Office of the Executive Director

July 12, 2020

Chief Justice Debra Stephens
Justice Charles Johnson
Washington Supreme Court
P.O. Box 40929
Olympia, WA 98504-0929, or
VIA EMAIL: supreme@courts.wa.gov

Re: Comment in support of proposed amendments to CrR 3.1, CrRLJ 3.1 and JuCR 9.3

Dear Chief Justice Stephens and Justice Johnson:

The WSBA Council on Public Defense (CPD) supports the Washington Defender Association's (WDA) proposal to amend CrR 3.1, CrRLJ 3.1 and JuCR 9.3 so that those rules would require judges to consider defense requests for expert funding *ex parte*. This issue is of special interest to public defenders and their clients, since public defenders represent many of the Washingtonians accused of crimes who cannot afford to pay the fees of the experts they need to have fair trials. This position has been approved through the WSBA's legislative and court rule comment policy and the position is solely that of the Council on Public Defense.

The proposed changes would put the indigent accused in a position more similar to that of defendants who can afford to hire experts, increasing the fairness of Washington's criminal justice system. Council for a defendant who can afford to hire an expert is free to consult with that expert without informing the prosecution. That changes only if the defense decides to call the expert as a witness at trial. Currently, an indigent defendant does not have that advantage if a judge refuses to consider their request for funds to hire an expert *ex parte*. We are also concerned that some defendants may receive reduced funds to pay for necessary experts if the government challenges their funding requests, exacerbating already existing disparities between indigent defendants and others charged with crimes.

WDA's proposed rule changes would increase equity in Washington's courts, and we hope you will adopt them.

The WSBA Council on Public Defense unites members of the public and private defense bar, the bench, elected officials, prosecutors, and the public to address new and recurring issues impacting the public defense system and the public that depends upon it.

The Council appreciates the Court's consideration of this comment.

Sincerely,



Terra Nevitt
Executive Director

CC: Daryl Rodrigues, Chair, Council on Public Defense
Rajeev Majumdar, President, WSBA



1325 4th Avenue | Suite 600 | Seattle, WA 98101-2539
800-945-9722 | 206-443-9722 | questions@wsba.org | www.wsba.org

From: [OFFICE RECEPTIONIST, CLERK](#)
To: [Tracy, Mary](#)
Subject: FW: Comment in support of proposed amendments to CrR 3.1, CrRLJ 3.1 and JuCR 9.3
Date: Tuesday, July 14, 2020 3:39:04 PM
Attachments: [image001.png](#)
[2020.7.12.CPD Comment CrR 3.1\(f\) CrRlj 3.1\(f\) and JuCrR 9.3 \(a\).pdf](#)

From: Bonnie Sterken [mailto:bonnies@wsba.org]
Sent: Tuesday, July 14, 2020 3:00 PM
To: OFFICE RECEPTIONIST, CLERK <SUPREME@COURTS.WA.GOV>
Cc: Terra Nevitt <terran@wsba.org>; Rajeev Majumdar <rajeev@northwhatcomlaw.com>; Daryl Rodrigues <daryl.rodrigues@outlook.com>; Travis D. Stearns <Travis@washapp.org>; Diana Singleton <dianas@wsba.org>
Subject: Comment in support of proposed amendments to CrR 3.1, CrRLJ 3.1 and JuCR 9.3

Good afternoon

Please find attached a comment from the WSBA Council on Public Defense regarding proposed amendments to CrR 3.1, CrRLJ 3.1 and JuCR 9.3.

Thank you



Bonnie Middleton Sterken | Equity and Justice Specialist

Washington State Bar Association | 206.727.8293 | bonnies@wsba.org
1325 Fourth Avenue, Suite 600 | Seattle, WA 98101-2539 | www.wsba.org
Pronouns: She/Her

The WSBA is committed to full access and participation by persons with disabilities. If you have questions about accessibility or require accommodation please contact bonnies@wsba.org.



*Most WSBA employees are working remotely.
Thank you for your patience and understanding.*