



Washington State
Supreme Court

Jessica Heath
Horwath Law
1117 Tacoma Ave S
Tacoma, WA 98402

Washington Supreme Court Rules Committee
P.O. Box 40929
Olympia, WA 98504-0929, or
VIA EMAIL: supreme@courts.wa.gov

1/25/2019

Re: Comment in support of proposed amendments to CrR 3.1, CrRLJ 3.1, JuCR 9.3 and GR 15

Dear Honorable Supreme Court Justices:

I am writing to support the changes Washington Defender Association has proposed to CrR 3.1, CrRLJ 3.1, JuCR 9.3 and GR 15.

I am a public defender in the City of Lakewood. I have been a public defender for 2 years. I currently represent clients in municipal court.


As a public defender, it is important that we are able to receive expert funding for our clients. Certain cases, such as DUIs, may have complicated drugs listed in the toxicology reports, and expert funding is crucial so that an expert can analyze these drugs to determine if a defendant was under the influence at the time of driving. Without these funds, indigent clients, who cannot even afford an attorney, would be missing an important piece of their case analysis. Without these funds, public defenders would not be able to effectively represent their clients because they would not be able to inform them if it's wiser to go to trial or take a plea deal. Further, if the case does go to trial, public defenders are not qualified to make opinions about certain scientific results. Often times, the prosecutor will have the toxicologist as an expert to favor their case, so the defense is left with no expert. This makes for an unfair advantage for the prosecutor. Indigent clients should not have to give up one important aspect of a fair trial in order to secure another important aspect of a fair trial. (Meaning that indigent clients should not have to put the Court and City on notice of their trial strategy, losing this confidentiality, in order to secure expert funds).

I specifically argued a motion to the City and Court to request expert funds. This disadvantaged my client because: 1) she had to share private financial information on the record to justify why she could not hire an expert (and to counter comments made by the City about why she should be able to afford an expert when she can afford, for example, a newer model car or cell phone); 2) we had to reveal facts of the case to the judge while the case was still in pretrial status; and 3) we had to extend my client's speedy trial rights and delay the case.

I respectfully request that you accept the changes that have been proposed in CrR 3.1, CrRLJ 3.1, JuCR 9.3 and GR 15.

Thank you for your time and attention.

Sincerely,


Jessica M. Heath