

# TULALIP TRIBES

## OFFICE OF THE RESERVATION ATTORNEY

---



October 31, 2024

Washington State Supreme Court  
P.O. Box 40929  
Olympia, WA 98504-0929

### **Re: CrR3.1/CrRLJ3.1/JuCR9.2 Standards**

Dear Honorable Justices:

On behalf of the Tulalip Tribes (“Tribes”) Office of Reservation Attorney, I write to urge the Court to adopt the WSBA Standards Court Rule Proposal concerning Standards for Indigent Defense.

I serve as the Managing Attorney for the Tulalip Tribes, providing legal counsel to the Tribes’ Board of Directors. In this role, I advise tribal leadership on matters pertaining to law and justice, public safety, and public health and welfare. This necessarily includes a focus on thinking about how our criminal justice system operates and whether it is effectively serving the needs of the community, within the context of the limited financial resources of the tribal government.

Tribal reservations are unique within the American legal structure – sovereign tribal governments are responsible for creating a system of laws that govern a small, close-knit community filled with friends and family members. Because of this, tribal policy is responsive to tribal members, with a focus on creating a legal system that is reflective of tribal values and cognizant of the disadvantaged position many community members face. In short, the Tribes cares about its citizens, and lets that compassion color its decision-making process.

Through this lens, the Tribes sees the importance of protecting its most vulnerable – those that face life circumstances that feel far away from the austere rooms where policymakers make decisions. Compassion requires standing behind your principles, even if it means expending resources that could be used elsewhere. The Tribes recognizes that if it wishes to employ criminal justice mechanisms and prosecute in furtherance of its criminal jurisdiction, defendants within its courts should not face a disadvantage just because of an inability to pay for an attorney.

In my role as an advisor to the Tribes’ Board of Directors, I must consider how our criminal justice system impacts outcomes. We recognize that the purpose of the tribal criminal justice system is not to imprison or punish people – it is to make our community safer and healthier with a focus on providing restorative justice that helps heal the Tulalip community. This can only be accomplished by thinking about how criminal defendants progress through the tribal criminal court. Good outcomes for a criminal case must include consideration of whether a defendant will make positive change in their life, reducing the chances of recidivism and more importantly, returning to their place as invested community members. This goal can only be accomplished if criminal defendants have someone to help them navigate this legal system – an attorney that not only understands the

laws, but also is thinking proactively about how to achieve a positive long-term outcome for their client. Further, adequate and robust public defense helps achieve a more efficient and expeditious criminal justice process. By processing cases in a timely manner as contemplated by the Sixth Amendment, victims can begin the healing process sooner, and defendants can move on from mistakes that should not define their lives or involvement in the community. That makes our community safer.

Of course, not all Tulalip tribal members live on the reservation, and we know that many tribal members are unfortunately caught in Washington State's criminal justice system. Our hope is that those tribal members will not be deprived of the full scope of their Constitutional rights solely because they are caught in the state's system rather than the tribal system. That only happens if the State provides them with a public defender that can actually devote individual time and thought to their case.

We urge the Supreme Court and the State of Washington to have compassion for Washington's citizens. As attorneys, we know that a fair and impartial criminal justice system – one that serves the most vulnerable within our communities – requires a robust and empowered public defense program. At the Tulalip Tribes, we have the benefit of operating a law and justice system small enough to see the benefits of making sure our criminal defendants are adequately represented. We hope that the State won't use the size and complexity of its legal system as an excuse for disregarding those that need help the most.

Very truly yours,

Carson R. Cooper, WSBA #44252  
Managing Attorney  
Office of the Reservation Attorney