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**From:** Christopher Taylor <taylor@crtaylorlaw.com>  
**Sent:** Friday, October 25, 2024 9:20 AM  
**To:** OFFICE RECEPTIONIST, CLERK <SUPREME@COURTS.WA.GOV>  
**Subject:** CrRLJ 3.1, CrR 3.1, JuCR 9.2 comment on proposed rule changes.

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I am writing to comment on proposed changes to CrRLJ 3.1, CrR 3.1, and JuCR 9.2.

I have been practicing primarily as a criminal defense attorney since 2007, i.e. more than 17 years. I have always in private practice, but have also had a significant portion of my practice devoted to providing indigent defense representation. That has been structured as contract work with various public defense agencies or, in the past, individual courts. I have had contracts with Pierce County and Mason County in the past, and currently have contracts with Thurston County and the Washington State Office of Public Defense. On an appointed basis, I have represented individuals accused of non-felonies in courts of limited jurisdiction, individuals accused of felonies--including homicides and other Class A felonies--in superior courts, and individuals seeking post-conviction relief--including direct appeals and *Blake*-related motions.

I read with interest an October 24, 2024 letter authored by Washington State Office of Public Defense Director Larry Jefferson concerning the proposed amendments to the caseload standards, which I understand was submitted as a comment to the Supreme Court. One paragraph from that letter caught my eye: the out at me, in the "prioritization of felonies" paragraph in the "alternatives suggestions for implementation" section.

I have personal experience with what Mr. Jefferson characterizes as "counties...hav[ing]...difficulty recruiting and retaining a sufficient pool of qualified felony attorneys." I am regularly approached by numerous public defense agencies, inquiring about whether I'd be willing to accept appointed cases in their jurisdiction. I have also noticed many of my fellow contractors have left or reduced their appointed felony practice, and have discussed with many of them their reasons for doing so. Some have expressed frustration at the low pay, and have sought more financially lucrative areas of practice. Some have expressed concern about the excessive workload. Some have expressed displeasure that the level of vicarious trauma inherent in the work increases with time, especially as attorneys "level up" to more serious cases. Some have retired. Some have died.

While I do think reducing caseloads for felony practitioners may have some impact on retention by minimizing burnout, I do not think that is the biggest hurdle for implementation of the proposed caseload standards. Instead, I would suggest the biggest implementation hurdle is the sheer number of criminal defense attorneys necessary to result in an adequate supply of appointed counsel. They don't exist. The number of currently licensed attorneys who have been sitting on the sidelines and not jumping into a criminal defense practice primarily because of excessive caseloads (or its related issue, low pay) is vanishingly small. To put it mildly, a criminal defense practice simply isn't for everyone. To be more blunt, I suspect the vast majority of attorneys, present and future, have no interest in ever becoming criminal defense attorneys under any circumstances.

What I am suggesting, from an implementation standpoint, is the most important thing is retention of attorneys who are relatively new to criminal defense practice. Typically, these are *misdemeanor* attorneys. Ensuring those attorneys don't burn out with excessive caseloads will result in a greater number of potential replacements for the felony attorneys who are leaving the practice, regardless of their reason for doing so, and the greatest number of new felony attorneys to supplement the existing pool of qualified felony practitioners. Focusing on this population--who has the advantage of being (1) already a licensed attorney; and (2) already having shown an interest and willingness to practice as a criminal defense attorney--is the most effective way to address the raw numbers issue. And so, with all due respect to Mr. Jefferson, if the Court is contemplating adjustments to its implementation of CrRLJ 3.1, CrR 3.1, and JuCR 9.2, I suggest this Court focus on misdemeanor representation first and foremost.

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Hope you and yours are healthy and safe,

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