



District and Municipal Court Judges' Association

President

JUDGE KARL WILLIAMS
Pierce County District Court
930 Tacoma Ave S Rm 239
Tacoma, WA 98402-2115
(253) 798-3312

President-Elect

JUDGE ANITA M. CRAWFORD-WILLIS
Seattle Municipal Court
600 5th Ave
PO Box 34987
Seattle, WA 98124-4987
(206) 684-8709

Vice-President

JUDGE JEFFREY D. GOODWIN
Snohomish County District Court
20520 68th Ave W
Lynnwood, WA 98036-7406
(425) 744-6800

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JUDGE JESSICA GINER
Renton Municipal Court
1055 S Grady Way
Renton, WA 98057-3232
(425) 430-6565

Past President

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Spokane County District Court
1100 W Mallon Ave
PO Box 2352
Spokane, WA 99210-2352
(509) 477-2959

Board of Governors

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Douglas County District Court
(509) 884-3536

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Skagit County District Court
(360) 416-1250

JUDGE MICHELLE K. GEHLEN
King County District Court
(206) 688-0418

JUDGE ANGELLE GERL
Airway Heights Municipal Court
(509) 244-2773

JUDGE ANTHONY GIPE
Kent Municipal Court
(253) 856-5730

JUDGE WILLIE GREGORY
Seattle Municipal Court
(206) 684-8711

JUDGE CAROLYN M. JEWETT
San Juan County District Court
(360) 378-4017

JUDGE CATHERINE MCDOWALL
Seattle Municipal Court
(206) 684-5600

JUDGE MINDY L. WALKER
Jefferson County District Court
(360) 385-9135

October 11, 2024

VIA EMAIL

Honorable Mary I. Yu
Supreme Court Rules Committee
c/o Clerk of the Supreme Court
PO Box 40929
Olympia, WA 98504-0929

RE: Comments on Proposed Amendments to CrRLJ 3.1 – Standards
for Indigent Defense

Dear Justice Yu and Members of the Supreme Court Rules
Committee:

This comment is submitted on behalf of the District and Municipal
Court Judges' Association.

The District and Municipal Court Judges' Association (DMCJA) has
grave concerns about the ability to meet these proposed caseload
standards in any meaningful way, given the current shortage of public
defenders in many jurisdictions and the inability to attract applicants to
fill currently open positions.

While it is the responsibility of the county or municipality to fund and
provide public defense, it is the responsibility of the court to uphold
each defendant's Sixth Amendment right to counsel. The drastic
reduction in caseloads proposed by these standards will require
almost double the current number of public defenders by many
estimates. There are simply not enough attorneys willing to fill these
positions at present, especially in rural jurisdictions.

Additionally, as we have seen during the COVID-19 pandemic, when
prosecutors delay filing criminal charges, they can create a significant
backlog. Trial courts must then devote additional resources to
relieving the backlog. If these standards are adopted, a longer
timeline for implementation would be prudent in order to allow cities
and counties to fund, recruit, and retain additional attorneys.

October 11, 2024

Aside from those general concerns about the change to the standards, we write to urge the Supreme Court to remove these standards from the criminal court rules, for several reasons.

First, RCW 10.101.030 already requires local legislative authorities to develop standards for the delivery of public defense services, and further provides that “[t]he standards endorsed by the Washington State Bar Association for the provision of public defense services should serve as guidelines to local legislative authorities in adopting standards.” Thus, there is no need to separately adopt these standards as part of court rules.

Second, the rules for “courts of limited jurisdiction” govern procedures in those courts. Judges have the responsibility to enforce these rules. The enactment of GR 42 (“Independence of Public Defense Services”) explicitly removed the judiciary from oversight, influence or control of public defense services. Therefore, promulgating the Standards for Indigent Defense as part of the criminal court procedural rules is a direct contradiction of the rules and statutes already in place.

Third, the entities who oversee and provide public defense – local and state legislative authorities – are not subject to the court rules that govern practice in courts of limited jurisdiction. Therefore, changes to the court rules will not reach the parties needed to implement these standards.

The DMCJA suggests that the standards either (1) remain as guidelines adopted by the WSBA and already incorporated into RCW 10.101.030; (2) become incorporated into the ethics rules for attorneys; or (3) go through the legislative process on the state level to pass a new statute with appropriate funding included.

We thank you for your consideration of our comments.

Sincerely,



Judge Karl Williams, DMCJA President

CC: Judge Catherine McDowall, DMCJA Rules Committee Co-Chair
Judge Wade Samuelson, DMCJA Rules Committee Co-Chair
Evan Walker, MPA, MJur, DMCJA Rules Committee Staff

From: [OFFICE RECEPTIONIST, CLERK](#)
To: [Martinez, Jacquelynn](#)
Subject: FW: DMCJA Comment on Indigent Defense Standards CrRLJ 3.2
Date: Friday, October 11, 2024 4:51:43 PM
Attachments: [DMCJA Comment on Indigent Defense Standards CrRLJ 3.1 10112024.pdf](#)
[image001.png](#)

From: Dugas, Tracy <Tracy.Dugas@courts.wa.gov>
Sent: Friday, October 11, 2024 4:43 PM
To: OFFICE RECEPTIONIST, CLERK <SUPREME@COURTS.WA.GOV>
Cc: McDowall, Catherine <Catherine.McDowall@seattle.gov>;
Wade.Samuelson@lewiscountywa.gov; Karl Williams <karl.williams@piercecountywa.gov>; Oyler,
Stephanie <Stephanie.oyler@courts.wa.gov>; Walker, Evan <Evan.Walker@courts.wa.gov>
Subject: DMCJA Comment on Indigent Defense Standards CrRLJ 3.2

Greetings,

Please see attached letter from the District and Municipal Court Judges' Association President Judge Karl Williams.

Tracy Dugas

Court Program Specialist | Office of Judicial and Legislative Relations

Administrative Office of the Courts

tracy.dugas@courts.wa.gov

www.courts.wa.gov

