



# BENTON COUNTY WA

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October 29, 2024

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### *Via Email Only*

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To the Honorable Justices of the Supreme Court:

On behalf of the citizens of Benton County, I strongly urge this Court to reject the proposed rule change reducing defense attorney caseloads.

While I stand by the comments offered by my colleagues from the Washington Association of Prosecuting Attorneys, I would like to point out areas of concern unique to my community.

Benton County is already reeling from the effects of a shortage of public and private attorneys. Our Office of Public Defense cannot meet their current needs. This is not just a product of the difficulty of the work handled by public defenders, which I do not dispute. An increase in statewide funding for public defense services is also not a solution, as there are simply not enough attorneys of any type in south central Washington to meet the requirements under the proposed rule.

Based on figures obtained from the WSBA earlier this year, there are approximately 1.5 attorneys per 1,000 residents combined in both Benton and Franklin Counties. Similarly, there are approximately 1.7 attorneys per 1,000 residents in Yakima County. Other rural communities across the state are similarly situated. By comparison, with the support of a much larger population base and two law schools, King County has approximately 7.3 attorneys per 1,000 residents. For its size, the Tri-Cities has the fewest number of attorneys anywhere in the state.

While other counties may be able to weather the proposed rule change if the legislature increases public defense funding, the change will result in far reaching catastrophic damage to our community.

1. **Public Safety.** Due to the *current* public defender shortage, the Benton County Prosecutor's Office has significantly reduced filing any nonviolent felony property crimes for the last four months. The only reason for this change is the lack of public defense attorneys. The proposed rule change would impact our local justice system more than any legislative action, more than any prior rule change or case previously decided by this Court. If implemented, I estimate that it would force a reduction in our annual felony filings to approximately one-third of our historical average, from 1,100 annual felony filings to approximately 350. The proposed rule threatens to effectively decriminalize all but the most serious felony offenses.
2. **Loss of Public Trust.** The people of the State of Washington have entrusted state government with the responsibility of administering justice. It is the obligation of this Court to implement any rule change in a responsible manner. The proposed caseload reduction will devastate the state's ability to affect justice on behalf of victims and the people. The natural consequence will be the public's further loss of trust in the efficacy of government.
3. **Therapeutic Courts.** The success of our participants in therapeutic court depends on our ability to file non-violent felony offenses, but this will not occur if we are forced to severely conserve public defender availability for our most serious cases. We are in the midst of an opioid epidemic. Many people charged with a non-violent property crime are only initially externally motivated to enter a therapeutic court or other sentencing alternative because of their pending criminal charge. Once in treatment, many of those same people develop the internal motivation and support they need to remain sober, stop committing crimes, and change their lives for the better. The Court must consider that the proposed change will severely impact defendants as well as victims and the public at large.

In conclusion, I ask that you reject the proposed rule change. It is a concept of an ideal that may have been crafted with good intentions but fails to see the long-term consequences. If implemented, it will destroy the peace and security of the people.

Best Regards,



ERIC EISINGER  
Benton County Prosecuting Attorney