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To: [Martinez, Jacquelynn](#)
Subject: FW: CrR 3.1, CrRLJ 3.1, and JuCR 9.2
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From: Greg Link <greg@washapp.org>
Sent: Monday, October 28, 2024 8:46 AM
To: OFFICE RECEPTIONIST, CLERK <SUPREME@COURTS.WA.GOV>
Subject: CrR 3.1, CrRLJ 3.1, and JuCR 9.2

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I urge this Court to adopt the proposed amendments of CrR 3.1, CrRLJ 3.1, and JuCR 9.2.

These proposals recognize that public defense attorneys, as any attorney, must provide each of their clients competent and diligent representation. RPC 1.1 and RPC 1.3. These proposals recognize these ethical demands require an attorney's caseload be limited in a way that permits the attorney to give each client's case the attention it deserves. And, the constitutional promise of the effective assistance of appointed counsel for people who cannot afford an attorney can permit no less. Whether a person is facing a felony conviction and long term in prison, prosecution of a misdemeanor, loss of their family, or appealing, the attorney this State appoints them must be able to represent them in a manner consistent with the ethical rules which bind all attorneys.

So much of the opposition to these proposals focuses on one aspect of the proposed standards; the number of clients an attorney can be expected to represent. This Court has not heard much, if any, opposition to the notion that public defenders meet certain qualifications before they represent a client and as they represent people in more complex cases. Requirements that public defenders employ support staff, investigators, and social workers garner little or no comment. In short, expectations that public defense attorneys should represent their clients in a fashion, with the support, and with the skill people expect of any attorney are not controversial. Save one; the number of people they represent. In fact, and even with that, the comments in opposition do not suggest public defense attorneys can readily and competently represent more clients, and do not suggest what an appropriate higher number should be. Instead, the comments in opposition simply assert it will cost too much to provide these poor clients that to which they are ethically and constitutionally entitled. The comments in opposition insist a cold financial calculus must prevail over any discussion of the quality of representation provided.

Public defense cannot be a volume enterprise.

The cynical claims that chaos, or even vigilantism, will arise if attorneys are afforded the time needed to represent each of their clients rest on an unspoken and unacceptable premise. That foundational premise is public defense in Washington, as it currently exists, only works if poor people facing conviction, imprisonment, and loss of their family simply get less from their attorney than those people, or any person, deserve. If the system will truly fall apart if attorneys are allowed the time to properly represent each of their clients, it begs the question whether it is truly a system intended to provide effective representation in the first place.

The proposed amendments recognize and reject this premise and the unfair bargain we impose on poor people. The proposed amendments recognize existing rules and standards do not provide people what they are entitled to; effective and meaningful representation by an attorney. That is what any system of public defense must provide.

Chaos will not ensue if Washington recognizes that poor people in court are not receiving the representation to which they are constitutionally entitled. Similar claims were voiced when this Court first considered and adopted CrR 3.1- Stds, CrRLJ 3.1 - Stds, and JuCR 9.2 –Stds in 2012. Yet none of that came to fruition.

The difficulties which will arise as Washington honors the ethical demands and constitutional guarantee of an attorney for those who cannot afford one on their own are all surmountable. Attorneys want to do this work. Attorneys are doing this work. But attorneys are leaving public defense because the present system demands they provide their clients less than those attorneys can ethically provide. If there is a crisis in finding attorneys willing to become public defenders it is made doubly worse by this exodus of qualified and experienced attorneys leaving the practice due to the demands and ethical compromise the current system requires of them.

These proposed amendments are the next and necessary step in this Court's commitment to honoring the promise of public defense. I urge this Court to adopt these proposed amendments as well as pending amendments regarding family defense cases and appeals.



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