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October 2024

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WASHINGTON STATE
SUPREME COURT

Washington State Supreme Court – Rules Committee
Post Office Box 40929
Olympia, Washington 98504

Re: Crisis – Public Defense in Washington State

To the Washington State Supreme Court:

I write to express the City of West Richland's grave concerns regarding the Washington State Bar Association's recently adopted Standards for Indigent Defense Services ("Rule Changes"), which are now before the Court for consideration. Additionally, I highlight the broader, deepening crisis facing public defense in Washington.

We urge the Court to reject these Rule Changes and instead collaborate with the WSBA and the Legislature to address the wider public defense crisis as a top priority.

Public defense in Washington—and nationwide—was already facing significant challenges before these Rule Changes were developed. Washington, despite being a wealthy state, ranks near the bottom in public defense funding, and there is a severe shortage of qualified defense attorneys. This shortage makes it difficult for cities and counties to recruit, train, and retain enough attorneys to meet constitutional requirements. Public defense remains one of the most demanding yet least compensated areas of legal practice.

Considering these realities, WSBA's Rule Changes effectively exacerbate the existing crisis by increasing the demand for public defenders without addressing the critical shortage of available attorneys. In Benton County alone, compliance with the new caseload standards would require hiring *nearly 100 additional defense attorneys* within a few years—a logistical and financial impossibility given the city and county's current and projected resources. Beyond attorneys, we lack the necessary clerical staff, equipment, and office space to accommodate such a dramatic increase.

Without a significant and unlikely reduction in criminal activity, counties like ours face a steep rise in public defense costs. These Rule Changes will force counties to hire thousands of new attorneys and staff, doubling or tripling costs, without any accompanying revenue to support this mandate. Compounding this issue is the simple fact that these new attorneys do not exist in sufficient numbers—we are already struggling to maintain full staffing as it stands.

Smaller, rural cities and counties will be disproportionately and negatively impacted by these changes. While even a mid-sized county like Benton will struggle, the burden on smaller counties is unimaginable. Even King County Prosecuting Attorney Leesa Manion has expressed serious concerns that these Rule Changes could bankrupt King County's General Fund. If King County is in such a precarious position, what hope is there for the rest of the state?

The timeline for implementation by 2027 only adds to our concern. This is wholly unrealistic given the current conditions.

We are left questioning WSBA's motivations. If the goal is to destabilize the system, the Rule Changes will succeed. If implemented, one or more of the following outcomes will occur:

- Prosecutions will be limited to the most serious offenses, leaving victims to bear the consequences.
- Accused individuals will spend more time in custody without counsel, driving up costs for all.

- Courts will dismiss cases on due process grounds—a trend already seen in Benton County.

Washington is already one of the most under-policed states in the nation. Combined with the *Luthi* decision and the impending caseload standards, the criminal justice system in this state is headed toward collapse.

As the saying goes, "Failure to plan is a plan for failure." WSBA's approach does not address the larger systemic issues at play and is a plan for failure that will reverberate across the state.

The City of West Richland's position is clear:

1. The Supreme Court should reject WSBA's Rule Changes and not consider them again until there is a comprehensive, systemic solution in place.
2. The Court should take the lead in convening a task force, funded by the Legislature, with representatives from all facets of the legal profession, local governments, victims, and law schools. This task force should develop a comprehensive plan for reforming Washington's criminal justice system.

The public defense crisis already exists, and WSBA's proposal will only deepen it, financially crippling cities and counties like ours in the process.

Sincerely,

A handwritten signature in black ink, appearing to read "Brent Gerry", with a stylized flourish at the end.

Brent Gerry,
Mayor/CEO, City of West Richland



3100 Belmont Blvd • West Richland, WA 99353

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