

From: [OFFICE RECEPTIONIST, CLERK](#)
To: [Martinez, Jacquelynn](#)
Subject: FW: Indigent Defense Standards CrR 3.1, CrRLJ 3.1, JuCR9.2
Date: Thursday, October 31, 2024 8:08:29 AM

-----Original Message-----

From: Nathan Poston <nrposton@icloud.com>
Sent: Wednesday, October 30, 2024 11:28 PM
To: OFFICE RECEPTIONIST, CLERK <SUPREME@COURTS.WA.GOV>
Subject: Indigent Defense Standards CrR 3.1, CrRLJ 3.1, JuCR9.2

[You don't often get email from nrposton@icloud.com. Learn why this is important at <https://aka.ms/LearnAboutSenderIdentification>]

External Email Warning! This email has originated from outside of the Washington State Courts Network. Do not click links or open attachments unless you recognize the sender, are expecting the email, and know the content is safe. If a link sends you to a website where you are asked to validate using your Account and Password, DO NOT DO SO! Instead, report the incident.

Dear Justices of the Supreme Court,

I'm writing in support of the proposed amendments for indigent defense standards.

I have spent the entirety of my career in public defense. That career began as an intern in the Spokane County Public Defender's Office in 2008. At that time, the office had a large number of senior attorneys with 20 plus years of experience working in public defense. Those attorneys were an inspiration, demonstrating that an attorney could work 25-30 years as a line public defender. After passing the bar, I worked for Jefferson Associated Counsel, a small non-profit firm that had the contract for Jefferson County. In 2013, I moved back to Spokane County to work for the Public Defender's Office. I worked initially as a misdemeanor attorney and saw my caseload jump from 90-100 cases in Jefferson County to 250 cases in Spokane. This was manageable for me though, because I had spent nearly four years being mentored by attorneys that truly cared for my well being and development as an attorney. Those attorneys ensured that I was ready for the rigors that came with being a trial attorney.

Over the next ten years I worked as a felony attorney at the Spokane County Public Defender's Office and Counsel for Defense. (A smaller County conflict office.) In that time, I watched the County Public Defender's Office turn over almost completely. New talented attorneys would come in but the attrition rate would often push them into positions that they were not ready for. A similar issue would arise with attorneys going on medical leave. This no doubt would have a compounding affect on all of the attorneys' stress levels. These are not situations unique to Spokane. The common denominator is that the current caseload standards leave attorneys feeling overwhelmed and subject to significant mental health issues. After 14 years, I left state public defense earlier this year.

I would also echo the comments that defending a case has become more time consuming. Some of this a result of the prevalence of body camera and surveillance. Some of it is the rise of work that should have always been a part of criminal defense, mitigation in sentencing. Our society has laid its substance abuse and mental health issues at the feet of the criminal justice system. This system seeks to process them and their cases focusing on efficiency and hoping that incarceration will address the issues that brought them before the Court. (It doesn't.) The absence of time to meaningfully meet with your clients enhances their feelings that they are being processed. Mitigation is both necessary and extremely time consuming. If public defenders know one thing, it's that the Courts they appear in front of are always concerned with efficiency related to "time standards." The caseload standards not only fail to account for body cameras and expert testimony, but also mitigation. Short of returning CrR 3.3 to its pre 2003 form, the best way to increase efficiency is implementation of the proposed amendments which would provide additional

attorneys and the necessary staffing to provide mitigation in State Court.

The proposed amendments provide an opportunity to stop the bleeding. Many attorneys see it as a light at the end of the tunnel. The concerns raised by the institutional bureaucracies seem to revolve around money. The current caseload standards arose out of Grant County's malfeasance in administering public defense. Through the Trueblood Order, those that work in public defense are also inherently aware of how costly it can become when a public institution deprives the accused of constitutional rights.

Some of the comments are brazenly transparent, wondering how much more they will have to spend on prosecution and law enforcement if "a reduced caseload for public defenders will lead to additional time to thoroughly investigate cases, which would increase the number of motions filed and cases taken to trial." It's hard to conceive of a statement more at odds with the constitutional right to an attorney and effective assistance of counsel. And yet, it is a not uncommon sentiment.

In house public defenders generally do not get billable hours. They could have easily spent a couple hundred hours preparing, litigating, and trying a case. Because that's what this job requires. When that case went to trial, their work week would easily be 60-70 hours, but as salaried employees they would have been compensated for 37.5 hours. They know that going in and are not asking for overtime, just to not get crushed under the weight of their caseloads. The proposed standards should alleviate that pressure and allow them to continue on in the jobs they love doing.

Thank you for your consideration.

Sincerely,

Nathan Poston
WSBA 41901

Sent from my iPad