

From: [OFFICE RECEPTIONIST, CLERK](#)
To: [Martinez, Jacquelynn](#)
Subject: FW: Proposed changes to CrR 3.1 Standards, CrRLJ 3.1 Standards, and JuCR 9.2 Standards,
Date: Monday, September 9, 2024 3:16:28 PM

From: bjorkess@gmail.com <bjorkess@gmail.com>
Sent: Monday, September 9, 2024 3:15 PM
To: OFFICE RECEPTIONIST, CLERK <SUPREME@COURTS.WA.GOV>
Subject: Proposed changes to CrR 3.1 Standards, CrRLJ 3.1 Standards, and JuCR 9.2 Standards,

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.

I'm a retired King County Superior Court judge. I was a public defender in King County from 1975 to 1985, trying felony cases for approximately five years. It was the best job I ever had, albeit grueling. The caseload standard of 150 felony cases per year (with a 1/3 credit for probation and parole violations) was doable but strenuous. What has changed is the amount of discovery and investigation. Back then a murder case might have a file with 3/4 inch of paper as the discovery. There was no video (except in DUI cases), nothing was recorded and the investigative sciences were minimal. There was no electronic discovery; there were no computers. Now discovery is massive, the science is complex, lawyers must spend a lot more time going over it all with clients.

A big change is time to trial. Cases were actually tried within 60 or 90 days of arraignment. That never happens now. Even when clients want a trial within the time for trial rule it is counsel's call, over the client's objection, if counsel reports that the case is not ready for trial, *see: State v. Ollivier*, 178 Wn.2d 813 (2013), *State v. Saunders*, 153 Wn.App. 209 (2009). Delays result in lawyers retiring, leaving the felony division, leaving public defense; withdrawal of counsel starts the time for trial anew, *State v. Lackey*, 153 Wn.App. 791, 798 (2009). There is currently a pending homicide case in King County where co-defendants have been in jail awaiting trial for five years, in part due to many changes of attorneys.

Reducing the caseload standard is necessary but it will require many more defense lawyers. A reduction is likely to allow lawyers to remain in public defense when the current standard causes them to leave for other work, but it will be difficult for the defense to attract and retain enough defenders. Perhaps courts will need to order private lawyers who have criminal experience to take some appointed cases.

Ronald Kessler