

September 23, 2024

Clerk of the Supreme Court
PO Box 40929
Olympia, WA 98504-0929

Re: Proposed Rules for Standards for Indigent Defense (CrR 3.1)

Justices,

I have practiced law in Washington State for 34 years. I have never felt compelled to provide comment on one of your proposed rules until now. As an attorney and more so as a law abiding citizen who wishes to live in as civil of a society as possible, I am now compelled to comment for your consideration on your proposed rule changes regarding indigent defense standards.

I do not practice criminal law, but I do have the opportunity to closely observe our local criminal justice system in Benton County. Currently, the system is struggling mightily. There is a shortage of public defenders that is causing significant delay in processing criminal charges. Everyone is *working diligently* to find solutions and keep our community safe, but it is challenging right now. The adoption of the proposed new standards, without other steps to support such changes, would throw our local criminal justice system into complete chaos.

As you know, for every action there is a reaction. A recent op-ed by two King County Superior Court judges on this topic reminded me of this maxim. It also reminded me that I do not think the proposed rules are ready for adoption, because the effects of them on the entire criminal justice system have not been thoroughly vetted and addressed.

I have read in depth about the process that went into the formulation of the proposed rules. What was missing from that process was input and consideration from *all* aspects of the criminal justice system. The effects of the proposed rules on the criminal justice system as a whole have not been adequately considered, nor have solutions been identified for the major impacts the proposed rule will have on the system and in turn the citizens of our state.

As recommended in the op-ed, prior to your consideration of the proposed rules I urge you to convene a committee to investigate and hopefully resolve the major impacts the proposed rule will have on prosecutors, the court system, jails and public safety. Those voices, in my view, were largely missing from the work group initially convened to examine the public defense issue.

If those voices had been heard, you would have been made better aware of the fact that these proposed standards, if enacted alone without other supporting policy changes, will quickly and completely cripple the criminal justice system in some if not all counties. The proposed standards will necessitate at least a three fold increase in public defense services in Benton County. As things currently stand, that requirement simply cannot be met for at least two reasons. Benton County does not have the fiscal ability to triple the amount of funding for public defense. And even if it did,

the supply of attorneys is nowhere near sufficient to enable the county to recruit that many public defenders.

As a result, many crimes committed against persons and property in Benton County will have to go unprosecuted. I hope that none of you want to so undermine the criminal justice system and require the citizens of Washington State to live in a more lawless society. We already have enough violence and crime.

I believe your noble effort to enhance the public defense system needs to be coupled with the identification of the issues the new proposed rules would create and solutions to those issues, so that we don't cause chaos in our criminal justice system. Enhancing public defense will require significant enhanced funding – more funding than local governments can supply.

As I am sure you are aware, Washington State's contribution to the cost of public defense services relative to the contributions of local governments is among the lowest of any state in the union. I appreciate that is beyond your control. However, you do control the timing of your actions. I urge you to delay action on these proposed rules until sufficient information is reviewed and discussions can occur to allow the needed funds and sources to be identified in order to allow the implementation of whatever new standards you decide upon.

Thank you for considering my thoughts and suggestion, and I am willing to try to answer any questions you may have for me.

Sincerely,



Ryan K. Brown
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Thinking of you



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