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October 31, 2024

Honorable Charles W. Johnson, Chair

Honorable Mary I. Yu, Chair

Washington State Supreme Court Rules Committee

Temple of Justice

P.O. Box 40929

Olympia, WA 98504-0929

Dear Justice Johnson and Justice Yu:

Re: Proposed Changes to CrR 3.1, JuCR 9.2, and the Standards for Indigent Defense

The Superior Court Judges' Association (SCJA) Civil Law and Rules Committee, Criminal Law and Rules Committee, Equality and Fairness Committee, Family and Juvenile Law Committee, and Rural Courts Committee reviewed the proposed changes to Criminal Rule (CrR) 3.1, Juvenile Court Rule (JuCR) 9.2, and the broader indigent defense standards. The SCJA acknowledges that the deficiencies sought to be addressed by the indigent defense standards proposed are real and pressing problems for many counties.

While there was not unanimous support from the SCJA Board, after thorough discussion and consideration, the SCJA supports the implementation of Phase 1 and recommends the Supreme Court to delay Phases 2 and 3 until justice system stakeholders convene to provide county-specific and statewide data and feedback to craft a sustainable long-term solution.

Phase 1 Implementation: Adequate Defense Counsel is Critical

The right to counsel is fundamental, requiring that defense attorneys have manageable caseloads to provide adequate representation. Public defenders in Washington's larger cities report overwhelming caseloads, which compromise their ability to serve clients effectively. Change is essential to provide public defenders and their clients with necessary relief. SCJA supports adoption of Phase 1 of the proposed rule changes for this reason.

Phases 2 and 3 Implementation: More Information and Resources Needed

While caseload limits and credits are essential, the success of these standards relies heavily on having adequate staffing and resources. Current attorney shortages and recruitment issues, particularly in rural areas, indicate that reducing caseloads alone won't resolve these problems. Comprehensive data on caseloads, attorney availability, and workloads across counties is necessary before implementing sweeping changes to avoid unintentional impacts on the justice system statewide.

Some smaller counties already operate within Phase 1 standards and may easily comply, whereas larger counties, like King County, demonstrate a clear need for caseload reduction. However, the statewide variation in caseloads, resources, and practices makes a one-size-fits-all approach inadequate. Therefore, the SCJA recommends that the Supreme Court gather input from a broad group of justice stakeholders before proceeding with Phases 2 and 3.

Pairing Changes with Increased Funding

Finally, convening justice system stakeholders to problem-solve prior to implementation of Phases 2 and 3 is important because of the financial strain that these rules will have on local communities. Without adequate funding for this mandate, local public defenders may be required to reject cases outright, making the problem even worse. This impacts our work and the justice system as a whole.

The proposed rule changes under consideration will require supplying a far greater level of resources to the public defense bar than will be available from county or city governments. An unfunded mandate to county government risks failure in meeting the aspirations detailed in the proposed rule, and may lead to insolvency or the partial collapse of existing public defense systems at the local level. The SCJA fully intends to support funding requests made to the Washington State Legislature that will increase resources for counties already experiencing limited access to public defenders, including, but not limited to, Benton, Franklin and Yakima Counties.

The SCJA appreciates this is an extremely complex issue, with a number of competing factors to consider. We understand OPD has provided the Supreme Court with alternative implementation pathways, which may also be worth exploring with all stakeholders. We stand ready to serve as a resource to the Supreme Court Rules Committee. Thank you for consideration of our comments.

Sincerely,



Kristin Ferrera, President
Superior Court Judges' Association

cc: SCJA Board of Trustees
Allison Lee Muller, AOC

From: [OFFICE RECEPTIONIST, CLERK](#)
To: [Martinez, Jacquelynn](#)
Subject: FW: Indigent Defense Standards Comment Letter
Date: Thursday, October 31, 2024 3:09:36 PM
Attachments: [SCJA Comment Indigent Defense Standards Final.pdf](#)

From: Valdez, Andrea <Andrea.Valdez@courts.wa.gov>
Sent: Thursday, October 31, 2024 2:53 PM
To: OFFICE RECEPTIONIST, CLERK <SUPREME@COURTS.WA.GOV>
Cc: Kristin Ferrera <Kristin.Ferrera@CO.CHELAN.WA.US>; Lee Muller, Allison
<Allison.LeeMuller@courts.wa.gov>
Subject: Indigent Defense Standards Comment Letter

Good afternoon.

Please see the attached comment letter regarding CrR 3.1, JuCR 9.2, and the Standards for Indigent Defense, sent on behalf of the Superior Court Judges' Association.

Thank you,
Andrea Valdez, MPA (she/her/hers)
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Superior Court Judges' Association
Administrative Office of the Courts
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