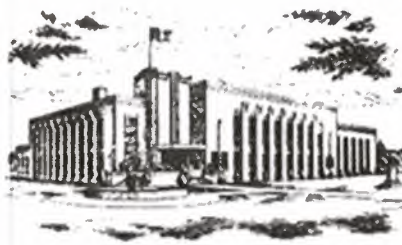


Wes McCart
District No. 1

Mark Burrows
District No. 2

Greg Young
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October 31, 2024

Clerk of the Supreme Court
P.O. Box 40929
Olympia, WA 98504-0929

Re: Comments on the Suggested Amendments to Standards for Indigent Defense

Honorable Justices,

The following comments are for submittal to the record on behalf of the Stevens County Board of County Commissioners (BOCC) and the over 48,000 people we represent.

Please reject the proposed amendments to CrR 3.1/CrRLJ 3.1/JuCR 9.2 Standards for Indigent Defense.

Stevens County supports a defendant's constitutional right to have adequate defense counsel, but the proposed changes will not further the State's efforts or responsibility to provide such defense under these new rules, especially because 95% of all costs of providing public defense are delegated to the counties by the State.

While we do not dispute the Supreme Courts ability to provide rules on how the courts are to function and adhere to procedures, the current proposal is a legislative action as it will require additional resources, both human and financial, not provided by the State Legislature. Mandating certain staffing levels for both defense attorneys and support staff goes well beyond rulemaking for how courts are to operate. This appears to be a legislative function and sets up a constitutional challenge on separation of powers under both the State and Federal Constitutions. It appears that the appropriate place to have this discussion would be for the courts to ask the State Legislature to take up this issue.

These proposed changes are an unfunded mandate and a violation of RCW 43.135.060. This court would be directly applying a mandated number of defense attorneys and staff and all related costs without any compensation from the State or a mechanism to acquire the necessary funding to carry out

this mandate or requirement. While the state law explicitly states that "...the legislature shall not impose responsibility for new programs or increased levels of service under existing programs on any political subdivision unless the subdivision is fully reimbursed by the state..." this courts new rule will be legislating or mandating the state legislature pay these costs for the counties without adequate checks and balances of due process and separation of duties.

Stevens County has taken our current case load and applied it to a calculator to determine our future need in terms of both staff and finances. Using our current caseloads, we will need 3 times our current number of attorneys and 30 additional staff for full implementation. Our total costs will rise from approximately \$1,000,000 today to approximately \$13,000,000 by 2028. These rules will in essence triple our costs every year for the next four years. For consideration, our total current expense budget that will fund these costs is currently approximately \$26,000,000. This would mean that 50% of our entire budget would need to go to just provide public defense.

Further, if this court implements new caseload standards and staffing requirements, they will be in direct conflict with RCW 10.101.030. The proposed court rules specifically adopt the state bar association standards and would raise them from guidelines that counties and cities must consider as guidelines to mandated requirements that we must follow. Again, this appears to be the Courts legislating, rather than making a request of the legislature to take this matter up as appropriate.

Where will all these new needed attorneys and staff come from? Stevens County has had great difficulty recruiting and retaining any attorneys, whether public defense, prosecution, or civil. We have also had difficulty recruiting trained staff to support these functions. This court cannot simply make a rule change and have personnel magically appear. Also, the demand for these services and personnel will further drive up the cost to hire and retain the needed staffing.

Also, for the Court Justice's consideration is the question of where will all the additional attorneys and support staff supposed to be housed. There are facilities, utilities, desks and supplies, vehicles, and many other costs that are associated with any new staff or personnel, whether contracting or hiring directly.

We urge you to please reject the proposed amendments to CrR 3.1/CrRLJ 3.1/JuCR 9.2 Standards for Indigent Defense and push this issue to the legislature to consider and fund as appropriate.

Thank you for allowing us to comment on this very important issue.

Respectfully,

BOARD OF COUNTY COMMISSIONERS FOR STEVENS COUNTY, WASHINGTON



Mark Burrows, Chairman



Wes McCart, Vice-Chair



Greg Young, Commissioner