

April 16, 2025

Washington Supreme Court  
415 12<sup>th</sup> Ave. SW  
Olympia, WA 98504

**RE: Proposed Standards for Indigent Defense CrR 3.1, CrRLJ 3.1, and JuCR 9.2 (Family Defense)**



**Washington**

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Dear Clerk of the Supreme Court,

We write to ask the Supreme Court to implement caseload standards for family defense attorneys that are consistent with the caseload study performed by the Council on Public Defense (“CPD”). The rights at stake in family defense cases are among the most important addressed in our legal system. Parents have a fundamental right to the care, custody, and control of their children, and government interference with that right is subject to the highest level of judicial scrutiny.<sup>1</sup> Children have a similarly fundamental right to care, safety, and to maintain familial relationships.<sup>2</sup> One of the most important safeguards for these fundamental rights is legal representation.<sup>3</sup>

However, the current standards do not allow attorneys to meet the standard of practice appropriate to the importance of these rights. The current caseload standards are arbitrary. The standards were created without input from practitioners or empirical studies of family defense practice and reflected long-outdated ideas of representation of indigent people. As a result, public defenders representing parents and children in dependency and termination proceedings face caseloads that are unworkable, preventing attorneys from meeting their ethical and constitutional obligations to their clients.

The CPD commissioned a study to ensure that it was able to present accurate information to the Court about the time required to provide meaningful representation in family defense cases. The study systematically determined the amount of time required to complete the tasks required to provide effective representation in family defense cases and forms the basis for the new proposed standards. These standards will allow practitioners to dedicate the time that these cases require, consistent with the importance of the right at stake in these cases.

Importantly, these standards also ensure that practitioners have the support they need by imposing a social worker support requirement. This will give

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<sup>1</sup> *Troxel v. Granville*, 530 U.S. 57, 57, 120 S.Ct. 2054 (2000).

<sup>2</sup> *In re Dependency of MSR*, 174 Wn.2d 1, 20, 271 P.3d 234 (2012).

<sup>3</sup> *Id.*

practitioners the resources they need to help reunite families, keeping children with their families and out of the foster system. Defense social workers play crucial role in family defense cases, helping parents engage in the court-ordered support services that are often the prerequisite to family unification. They have a unique position in these cases because they can provide resources to meet a parent's non-legal needs but do not represent the possibility of coercive state power. These social workers usually have a better understanding of the issues a parent faces because people can be more open with them and, as a result, defense social workers can better help address the issues parents face.

These proposed standards are necessary not only to protect the important rights at stake in each specific case but for our communities. Family separation has enormous downstream consequences for the functioning of our communities, with children who go through the foster care system suffering worse outcomes than children who are not separated from their family across a variety of life outcomes.<sup>4</sup> Attorneys representing parents and children in dependency and termination proceedings are uniquely positioned to advocate for family unification, so that families heal and can stay together. However, because their caseloads are too high and attorneys lack support, they are unable to do this currently. The Court must give them the resources to effectively do this important job.

For these reasons, we ask the court to adopt these standards.

Thank you,

/s/ La Rond Baker

La Rond Baker, Legal Director

David Montes, Staff Attorney

American Civil Liberties Union of Washington

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<sup>4</sup> <https://www.crimlawpractitioner.org/post/the-foster-care-to-prison-pipeline-a-road-to-incarceration>; <https://www.aecf.org/blog/child-welfare-and-foster-care-statistics>.

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**Attachments:** [image001.png](#)  
[CrR 3.1 CrRLJ 3.1 JuCR 9.2 Standards for Indigent Defense \(Family Defense\).pdf](#)

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**Sent:** Wednesday, April 16, 2025 2:17 PM  
**To:** OFFICE RECEPTIONIST, CLERK <[SUPREME@COURTS.WA.GOV](mailto:SUPREME@COURTS.WA.GOV)>  
**Cc:** La Rond Baker <[baker@aclu-wa.org](mailto:baker@aclu-wa.org)>  
**Subject:** RE: Comment on CrR 3.1/CrRLJ 3.1/JuCR 9.2 - Standards for Indigent Defense (family defense cases)

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**From:** David Montes  
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**To:** [supreme@courts.wa.gov](mailto:supreme@courts.wa.gov)  
**Cc:** La Rond Baker <[baker@aclu-wa.org](mailto:baker@aclu-wa.org)>  
**Subject:** Comment on CrR 3.1/CrRLJ 3.1/JuCR 9.2 - Standards for Indigent Defense (family defense cases)

Good afternoon,

Attached is a comment from ACLU-WA on CrR 3.1/CrRLJ 3.1/JuCR 9.2 - Standards for Indigent Defense (Family Defense).

Thank you,

**David Ventura Montes**  
Staff Attorney  
Pronouns: he, him

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