

BENTON & FRANKLIN COUNTIES SUPERIOR COURT
JUDICIAL RESOLUTION NO. 11-003

WHEREAS: Benton & Franklin Counties ("Counties") are obligated by law to provide legal representation to persons subject to detention ("Detainees") by virtue of Washington's Sexually Violent Predator ("SVP") Act, Chapter 71.09, RCW; and

WHEREAS: Portions of Chapter 71.09, and associated Washington Administrative Code Title 388 provide Detainees with the additional right to the benefit of appointed professionals to assist them with their cases (including mental health professionals and investigators); and

WHEREAS: Chapter 71.09 and Title 388 require judicial approval for the appointment of counsel or other professionals; and

WHEREAS: It is the desire of the Benton & Franklin Counties Joint Judicial District to delegate its statutory and rule-based authority to approve and make initial appointments of counsel or other professionals on SVP cases;

NOW THEREFORE

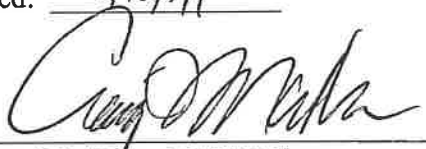
The appointment and approval of defense counsel and other professionals, as provided by Chapter 71.09 RCW and WAC Title 388, shall be accomplished as follows:

1. **All Appointment Orders Must be Endorsed by the Indigent Defense Coordinator ("IDC").** All orders proposed by counsel for appointment of counsel, experts, investigators, or other professionals, shall be, to the extent that they will or may result in the expenditure of funds, endorsed by the IDC or designee. In evaluating requests for appointment of counsel, experts, investigators, or other professionals and requests for other expenditures IDC shall consider whether or not the county will be reimbursed under WAC 388-85-016 and WAC 388-85-013 (4).
2. **Denials by IDC May be Appealed to Superior Court.** In any instance where the IDC either denies a request for funding (or endorsement of appointment) or imposes a funding limit lower than that which is requested by the attorney filing the request, then the attorney may appeal the denial or reduction in funding limit to the Superior Court. If such an appeal is made, then the attorney shall ensure that the IDC and the prosecuting authority are provided with at least five (5) business days' notice of the date and time when the appeal will be heard.
3. **All Initial Requests to be Made by *Ex Parte* Motion.** All requests of the Court for initial appointment of counsel, experts, investigators or other professionals shall be made in the form of a motion and, may be made *ex parte*.
4. **Initial Appointment of Counsel.** Once the Court learns of the filing of a petition pursuant to RCW 71.09.030, then the Office of Public Defense ("OPD") will be notified and will be responsible for administratively appointing counsel for purposes of representation at initial stages of the Commitment process including the probable cause hearing pursuant to RCW 71.09.040. This appointment will be provisional only and will be contingent upon a finding by the Court of indigency. Upon such a finding of indigency, the provisionally appointed attorney will be directed to file a motion and order for formal appointment to the case, the same to be heard *ex parte*.

5. **Appointment of Experts, Investigators, and other Professionals.** Authority to pre-approve and appointments of experts, investigators, and other professionals (other than additional examiners) to assist the defense in SVP cases, during all stages of proceedings, is explicitly and completely delegated to the IDC or designee, except in situations where statute, administrative rule, or court rule requires a specific finding by the Court. Appointment of additional examiners shall be by made by the Court upon motion and supported by written findings of good cause considering the criteria set forth in WAC 388-885-013 (e). IDC and the Department of Social and Health Services shall be provided with at least ten (10) business days' notice of the date and time when the motion will be heard. Notice shall not be given to the prosecuting authority.
6. **Appointment of Counsel for Annual Reviews.** The Court delegates authority to appoint counsel for annual reviews, to the extent such repeated re-appointments are required by the State, to the IDC or designee.
7. **Appointment of Co-Counsel.** Where statute or administrative rule provides for the appointment of co-counsel, the request for such appointment shall be made to the Superior Court with endorsement by the IDC as provided in Section 1. If the particular case has a pre-assigned judge, then the request shall be made by motion to the trial judge assigned to the case. If no pre-assignment has been made, then the request may be made to any Superior Court judge. IDC and the prosecuting authority shall be provided with at least five (5) business days' notice of the date and time when the motion will be heard.
8. **Appointment of Counsel for Developing an LRA Plan.** Requests for appointment of counsel for purposes of assisting a detainee with the development and proposal of an LRA Plan other than a plan that has been developed by the Special Commitment Center ("SCC") shall be made by motion and justified by good cause. . IDC and the prosecuting authority shall be provided with at least five (5) business days' notice of the date and time when the motion will be heard.

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HON. CAMERON MITCHELL, Presiding Judge
Dated: 9.9.11


HON. CRAIG J. MATHESON
Dated: 10/11/11


HON. CARRIE L. RUNGE
Dated: 9/9/11


HON. BRUCE A. SPANNER
Dated: 9/9/11



HON. ROBERT G. SWISHER

Dated: _____



HON. VIC L. VANDERSCHOOR

Dated: 10/11/11