

A blurred photograph of an office interior. The background features wood-paneled walls. On the left, an American flag stands on a pole. In the center, a circular framed portrait hangs on the wall. To the right, another flag is partially visible. In the foreground, a desk is cluttered with various items, including a telephone, papers, and a small red sign. The overall lighting is warm and somewhat dim.

Initial Client Meeting & First Appearance

A close-up photograph of a soccer ball with black and white panels hitting a white goal net. The ball is positioned on the left side of the frame, partially obscured by the net's mesh. The background is a blurred soccer field with green grass and a blue sky.

Goals

1. Give you a practical framework for your initial client contact.
2. Provide a template for your release argument
3. Give you the basis to object to Unlawful Conditions

CrRLJ 3.1 (b) Stage of Proceedings.

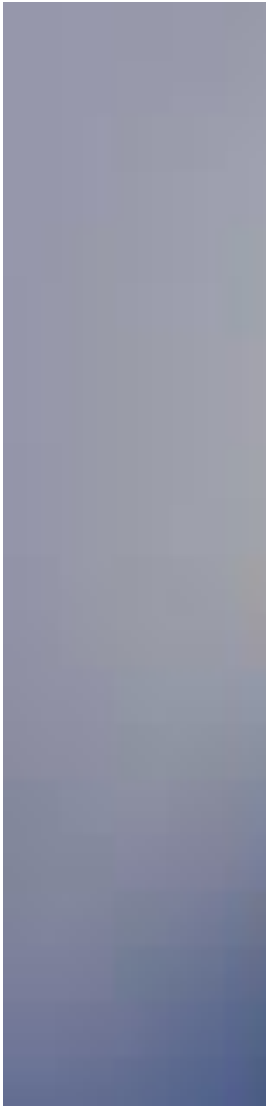
- 1) The right to a lawyer shall accrue as soon as feasible after the defendant has been arrested, appears before a committing magistrate, or is formally charged, whichever occurs earliest.
- 2) A lawyer shall be provided at every critical stage of the proceedings.

“The right to counsel guaranteed by the Sixth Amendment applies at the first appearance before a judicial officer at which a defendant is told of the formal accusation against him and restrictions are imposed on his liberty.”

Rothgery v. Gillespie County, 554 U.S. 191 (2008)

Talk Before Court





AUTHENTICITY
 SOUL RELATIONSHIP **HEAR** EMOTION UNDERSTAND
 UNDERSTANDING SELF-EMPATHY
 COMMUNICATION
COMPASSIONATE INTERPERSONAL **COMPASSION**
 HEARING **EMPAT** COMMUNION
SPEAK **PATHY** EMPATHIC
 REQUEST **ALIVE**
GIVING **HEART**
 DIALOGUE **MUTUAL**
 INSIGHT **AWARENESS**
PRESENCE **CONNECT** **NEEDS**
 I HEAR YOU MEETING **PRESENT**
 CONSCIOUSNESS **LISTENING** SAFETY **WARMTH**
FEELINGS
 EMOTIONAL
 RESPONSIVE

Where do I start?

Have a prepared introduction:

“Hi, its nice to meet you, I wish it was under different circumstances, my name is Angela, I am an attorney with Thurston County Public Defense. I will be helping you today. I see it as my job to fight for you and to stand between you and the State who is trying to keep you in a cage. I will do everything I can to get you out. So I want to start by learning a little bit more about you, then we can talk about what they are accusing you of doing, and what to expect at your hearing. Sound like a plan?”



Where do I start?

- Greet them & Introduce Yourself
- End your introduction with a value statement
- Give them an outline of the meeting
- Get Started





Advise about Confidentiality

“You and I have a confidential relationship, that means I keep your secrets. I will not share any information you share with me with the Court or the Prosecutor without your express agreement and permission.”

The Most Important Piece of Legal Advice:
DON'T TALK ABOUT YOUR CASE!



Tell me about you

How do they prefer you address them? Pronouns?

Are they from the area? How long have they lived here?

Do they have a significant person?

Do they have children? Who is caring for them now?

Are they a U.S. Citizen?

Other family? Do they support them or care for them?

Are they working or in school? For how long? Income? Expenses?

Are they active in any community groups? Church/Synagogue/ Mosque?

Where are they staying? Who do they live with?

Do they have any medical/mental health conditions? Medications

Do they hold any special licenses?

Is there an amount of bond they think they can post?

Get/confirm contact info and including an email address

Why should My Client share this information?
Why is This Information Important?

Humanize, Normalize and Make Your Client Safe



A wooden gavel and a pair of metal handcuffs are shown on a dark blue background. The gavel is positioned diagonally, with its head resting on a wooden block. The handcuffs are open and placed to the left of the gavel. The text "Advise your client of the charge and the possible penalties" is overlaid in white, with a white underline beneath the words "possible penalties".

Advise your client of the charge and the possible penalties

What is going to happen at the hearing?

- Appoint the Public Defender
 - PC determination
 - or-
 - Arraignment
- Set Conditions of Release



Right to Plead Guilty at Arraignment

Matter of Burlingame, 3 Wash. App.2d 600, 416 P.3d 1269 (2018).

How do I know when my client should plead guilty?

- Folks w/ multiple DUIs,
- A4s that could be upcharged,
- when in doubt ask another attorney/your supervisor
- if all else fails consider continuing arraignment

Charge Specific Release Conditions

DV

- Firearm surrender/nonsurrender
- NCO/anti-harassment order
 - Civil Standby
 - Client housing?

DUI

- IID
- 24/7 Monitoring/SCRAM

CrR(LJ) 3.2

The Presumption of Innocence means a Presumption of Pretrial Release

- CrR(LJ) 3.2 provides that “[a]ny person, other than a person charged with a capital offense, shall... be ordered released on the accused’s personal recognizance pending trial...”
- This presumption can only be defeated if the Court finds either
 - the accused’s personal recognizance will not “reasonably assure” their appearance at future court dates,
 - or*
 - “there is shown” by the Prosecutor “a likely danger” that the accused
 - (a) will commit a violent crime, or
 - (b) will seek to intimidate witnesses, or... unlawfully interfere with the administration of justice.”

While the Prosecutor bears the burden of presenting evidence to overcome the presumption of pretrial release, CrRLJ 3.2 requires the Court to consider all relevant factors, most of which are mitigating:

CrR(LJ) 3.2

- History of response to legal process, particularly court orders to appear (timely motion to quash suffice);
- Community ties, especially: Length of residence;
- Family ties and relationships;
- Employment status and history;
- Enrollment in school or job training;
- Participation in counseling program;
- Participation in cultural activities;
- Receipt of government assistance;
- Reputation, character, and mental condition;
- Willingness of responsible community members to vouch for the accused's reliability and assist the accused in complying with any conditions of release;
- Any other factors indicating the accused's ties to the community.

Other Factors regarding “Substantial Danger”

CrR(LJ) 3.2

- History of committing offenses while on pretrial release, probation, or parole;
- Nature of the charge (if violent); Violent criminal record;
- Any evidence of threats to victims or witnesses, either past or present;
- Record of using deadly weapons or firearms, especially to victims or witnesses.

No Bond Holds

Article 1, section 20 guarantees greater freedom from pretrial detention than under the Federal Constitution, by granting an absolute right to bail before conviction in all noncapital criminal cases and cases where there is not the possibility of life in prison:

“All persons charged with crime shall beailable by sufficient sureties, except for capital offenses when the proof is evident, or the presumption great.”

No Bond Holds

CrRLJ 7.6 (d)

Release Pending Probation Hearing. If the defendant has been arrested for an alleged probation violation, the court shall release the defendant within 24 hours or hold a hearing on the next judicial day to determine release conditions pursuant to rule 3.2

Argument Template

- Ask for what you want
- Tell the Court why they should do what you want
- Ask for what you want

-or-

- Topic sentence
- Support
- Topic sentence

Example Argument

The Defense is urging the court to release Mr. Stearns on his Personal Recognizance. Mr. Stearns is a father, a husband and a valued member of his community. He has resided and worked here in Ellensburg for over 20 years.

Mr. Stearns has no prior involvement with the criminal legal system.

There is absolutely no evidence to support any contention that he will not appear, commit a violent offense or otherwise interfere with the administration of justice.

3.2 dictates that the Court put in place the least restrictive possible conditions. In this case, the Court has no reason to suspect that its orders will not be sufficient.

The Defense therefore urges the Court to release Mr. Stearns on his Personal Recognizance.

Don't Shy Away from Talking About Money

Requiring Mr. Stearns to post bond is tantamount to a no bond hold.

Mr. Stearns works full-time and he makes \$15 an hour. His take-home pay is about \$2000 per month. His rent is \$1200 per month. He pays \$300 a month for child support. His bus pass costs \$50 per month. His electric bill is \$100 per month. Health insurance is \$200 per month. That is a total of \$1,850 per month. That leaves him with only \$37 per week to pay for all of his food and any other expenses, including during the two weeks he has custody of his boys. If he has to post bail in order to get out and keep his job and apartment, he and his boys will have to forego food.

Requiring Mr. Stearns to post bond is tantamount to a no bond hold, therefore the Defense urges the Court to release Mr. Stearns on his personal recognizance.

Don't Avoid Bad Facts: Own them and explain them

Mr. Stearns does have a prior conviction for unlawful possession of a firearm.

It is from over a decade ago now, and it stemmed from some confusion on Mr. Stearns' part about the effects of a juvenile case on his firearm rights.

Since that time he has had no involvement with weapons.

The fact that he successfully co-parents with the mother of his children is strong evidence that he is capable of navigating difficult situations with peace and collaboration, and without risk of any violent crime.

Mr. Stearns is not a risk to our community and therefore the Defense urges the Court to release Mr. Stearns on his personal recognizance.

Helpful Soundbites

Pretrial Detention Has Devastating Consequences for Individuals and Their Families.

When we jail people, we trigger cascading consequences. In many cases, wages are foregone. Jobs are lost. Housing is jeopardized. Child custody is removed. Individuals, snatched from their homes and families, forfeit the social and community supports that matter so much.

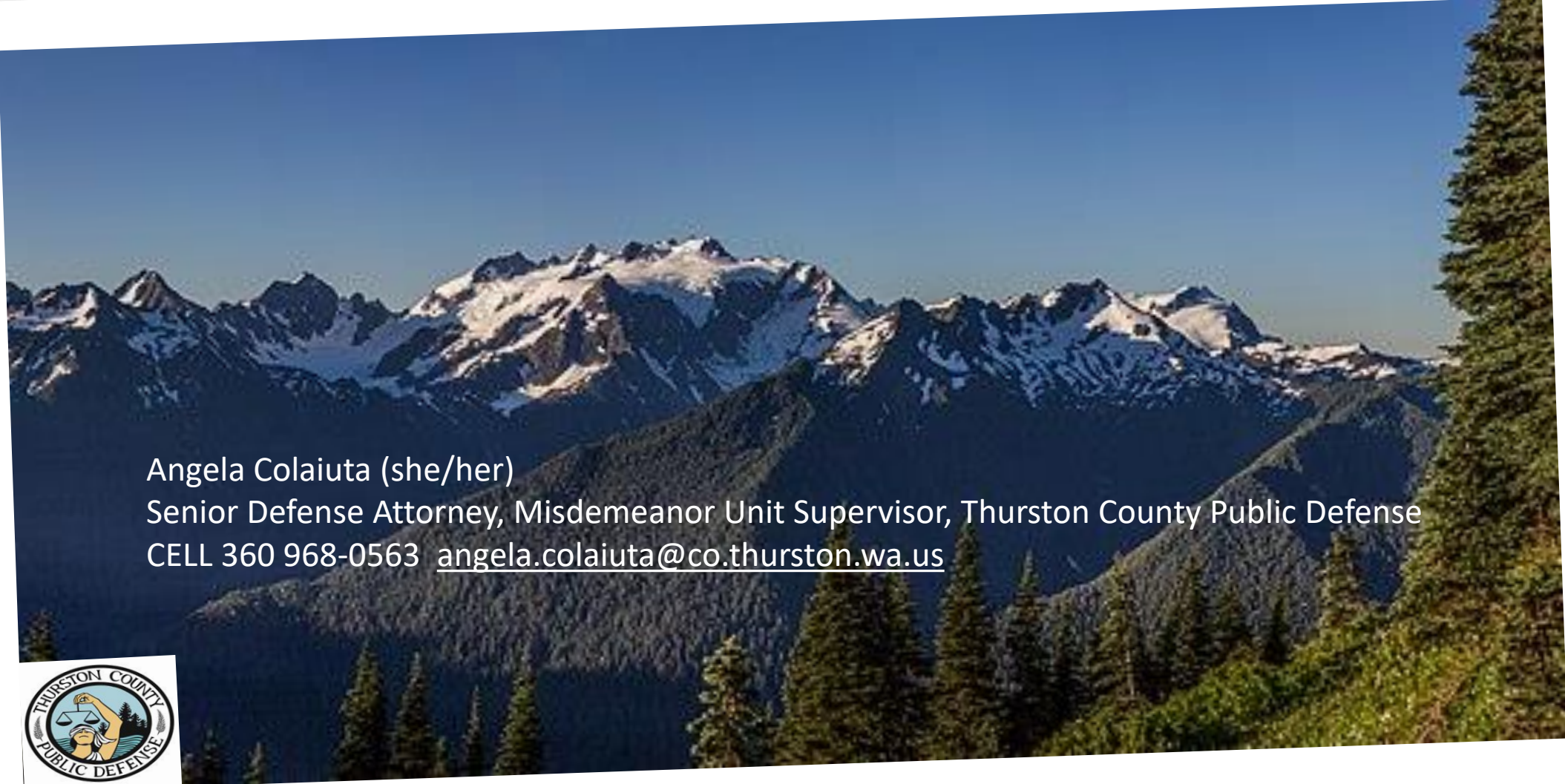
Secured Money Bail Creates Two Tiers of Justice – One for the Poor and One for the Rich. People who have been detained pretrial, even when innocent, suffer worse case outcomes. One study in Harris County, TX found that pretrial detainees were 25% more likely to plead guilty than similarly situated defendants who could fight their cases from a position of freedom. It also found that Harris County would have avoided almost 6,000 criminal convictions if it released all misdemeanor arrestees pretrial. Pretrial detainees – in danger of losing jobs, access to healthcare, children, and housing – face enormous pressure to plead guilty and hasten their release. And when detained arrestees are convicted, they face longer sentences.

In effect, the money bail system **criminalizes poverty**, as people who are unable to afford bail are detained while they await trial for weeks or even months. Cash bail perpetuates inequities in the criminal legal system that are disproportionately felt by communities of color and those experiencing poverty.

Object to Unlawful Conditions

- Does this condition require client to forego a constitutional right under the 4th or 5th Amendments? Does it require them to forego their constitutional right to privacy under Art. I sec. 7 of the WA Constitution?
- Are the conditions sufficiently clear that client knows what specific behaviors are prohibited?
- Do or will any of the conditions interfere with client's ability to engage in employment, attend treatment, or parent their children?
- When in doubt, object.





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