

IN THE SUPREME COURT OF FLORIDA

**IN RE: AMENDMENTS TO THE
FLORIDA RULES OF CRIMINAL
PROCEDURE**

Case No.: **SC02-230**

**COMMENTS ON AMENDMENTS TO RULE 3.111(b)(1)
AND PROPOSED RULE 3.994**

The Florida Public Defender Association, Inc., (“FPDA”) offers the following comments on the latest proposed amendments to Florida Rule of Criminal Procedure 3.111(b)(1) and the standard “Order of No Imprisonment” form proposed as Florida Rule of Criminal Procedure 3.994. The FPDA consists of the twenty elected public defenders, hundreds of assistant public defenders and support staff. As appointed counsel for indigent defendants, FPDA members are deeply interested in the rules of procedure governing appointment of counsel.

The FPDA believes that The Florida Bar’s Rules of Criminal Procedure Committee’s current proposal is a significant step forward in solving many problems with Orders of No Imprisonment. The FPDA would like to thank the members of the committee who worked to make the necessary changes in the proposed amendments and rule. The FPDA recommends that this Court adopt the committee’s proposal.

The FPDA would suggest only that this Court change the term “public defender” to “appointed counsel” wherever it appears in the proposed amendments

and rule. The FPDA understands the committee's theory that appointed counsel are "special assistant public defenders" and therefore technically fall within that term. Nevertheless, "appointed counsel" is less likely to cause confusion and is consistent with the language in other rules. For example, Florida Rule of Criminal Procedure 3.130(c)(1) uses "appointed counsel" or "court-appointed counsel."

WHEREFORE, the FPDA commends the committee for its work on these proposed amendments and rule and recommends their adoption by this Court.

Respectfully submitted,

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CERTIFICATE OF SERVICE

I hereby certify that a copy of these comments has been sent by mail to the Honorable Kevin M. Emas, Chair, Florida Bar's Rules of Criminal Procedure Committee, 1351 N.W. 12th Street, Room 424, Miami, Florida 33125-1629 this ____ day of October 2002.

I hereby certify that this comment is printed in 14-point Times New Roman.

NANCY A. DANIELS