

## Faulk, Camilla

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**From:** Craig Ritchie [CRitchie@ci.sequim.wa.us]  
**Sent:** Thursday, April 03, 2008 12:55 PM  
**To:** Faulk, Camilla  
**Cc:** kwills@co.clallam.wa.us  
**Subject:** Comments regarding proposed CrRLJ 4.1 Presence of Prosecutor

The provision in 4.1(f), "**If the defendant is detained, in custody, the prosecuting authority shall attend the arraignment,**" creates a serious problem for a small city contracting with the county for municipal court services.

While the county prosecutor should just have to walk down the hall for district court, city attorneys may have to drive for miles to get to court. In Sequim, it is about a 30 min. drive to Port Angeles. We normally are in court only parts of two days a week. This rule would require that we be present every day because of the possible situation where the defendant, in custody and initially appearing wants to plead guilty. This often happens when a defendant knows that he or she has already served more time awaiting trial than he or she will serve if convicted, wishes to plead guilty and doesn't want to wait for the arraignment date.

This could easily be fixed by clarifying that the prosecutor does not need to be present except on the date set for arraignment or that the defendant may waive the presence of the prosecuting authority at arraignment or that the prosecuting authority may attend by telephone. It is not affordable for a small city, distant from the courthouse to have an attorney present every day in court. It is not reasonable or fair to a defendant that he or she can't plead guilty on a day other than the arraignment day. It is more in keeping with CrRLJ 3.4 (d) (video arraignment) that the prosecuting authority be able to participate in an arraignment by telephone. It is respectfully submitted that the prosecutor doesn't really need to see the courtroom, judge, defense attorney or defendant - the city's due process rights are not affected if we can hear and speak during the process. A fax will allow us to review any proffered documents, such as J&S.

My proposed additional language to be added to CrRLJ 4.1(f) is: "The defendant may waive the presence of the prosecuting authority," and, "The prosecuting authority may attend by telephone and may sign court documents sent or received by fax, when authorized by the court."

This solves the problems identified by the ACLU in its comments to the earlier proposed rule CrRLJ 4.1(f), does not unnecessarily increase costs for small cities remote from the courthouse and, most of all, allows defendants and defense counsel more ability to get out of jail.

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