CITY OF VANCOUVER

April 21, 2008

Clerk of the Supreme Court
P.O. Box 40929
Olympia, WA 98504-0929

RE: Proposed amendment to CrRLJ 4.1

To the Clerk of the Supreme Court:

We are writing on behalf of the City of Vancouver to oppose the proposed changes to court rule CrRLJ 4.1. The proposed change would require prosecutors to appear at in-custody arraignment proceedings in the district and municipal courts. That would significantly increase costs and impact prosecution resources for minimal public benefit.

Our office could not meet this requirement with our current staff of attorneys. The financial strain this would cause the City of Vancouver would be significant.

Having a prosecutor at every arraignment is not necessary to protect the judiciary's role as a neutral decision-maker. Informing a defendant of the charges filed against him or her, accepting a plea, and possibly imposing conditions of release do not place the court in a prosecutorial role.

We also oppose the rule change mandating that a public defender be available at arraignment for all defendants, even those who are not indigent. While we currently have public defenders present at all arraignments, their contract does not require that they provide legal advice to defendants who have the means to hire their own attorneys. Costs will dramatically increase if the City is now expected to pay for attorneys of people who are not indigent. The reasoning behind this rule appears to be that anyone who would choose to waive his right to an attorney and speak with a prosecutor is at a legal disadvantage. In reality, that is not the case and seems to ignore the right to self-representation guaranteed by the U.S. Constitution.
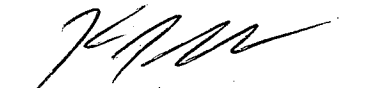
We would urge the Court to not adopt the proposed rule changes for the reasons stated above.

Sincerely,

Ted Gathe
Vancouver City Attorney

Kevin J. McClure
Vancouver City Prosecutor

C: Mayor Royce E.Pollard
Pat McDonnell, City Manager
Jan Bader, Program and Policy Development Manager