



June 26, 2013

***President***

Deena Kaelin  
Probation Officer  
Puyallup Municipal  
253-770-3347

The Honorable Charles Johnson  
Supreme Court Justice  
Chair of the Supreme Court Rules Committee  
Washington State Supreme Court  
c/o Clerk of the Supreme Court  
P.O. Box 40929  
Olympia, WA 98504-0929

***Vice President***

Skip Stover  
Probation Officer  
Chelan District Court  
509-667-6239

**Re: Proposed Rules Changes to ARLJ 9 and GR 31**

Dear Justice Johnson:

On behalf of the Washington State Misdemeanant Corrections Association (MCA), I am providing these comments and response to the proposed amendments to repeal ARLJ 9 and amend GR 31 as proposed, subsection (1), access to evaluations, presentence reports, probation and compliance reports.

***Treasurer***  
Chris Hornung  
Probation Officer  
Marysville Municipal  
360-363-8064

Our membership consists of District Court and Municipal Court probation officers who work daily under the application of ARLJ 9 and GR 31. Our organization is appreciative of the efforts undertaken by the District and Municipal Court Judges Association (DMCJA) reviewing these rules in response to a request from the Supreme Court pertaining to an apparent conflict between ARLJ 9 and GR 31 and as to public access to court records.

Though our Association has members who would have preferred retaining ARLJ 9 as currently written and not amending GR 31, we are supportive of the proposed approach as discussed below.

***Secretary***  
Debbie Noland  
Probation Officer  
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The MCA supports and encourages the repeal of ARLJ 9 based on this apparent conflict identified by the DMCJA, but only if and when the Supreme Court amends GR 31 to include the new subsection (1) that will address the personal

privacy concerns in court records. The adoption of this amendment would be critical to maintain privacy of individuals and those defendants in the municipal and district courts that we serve. Currently, ARLJ 9 protects open access to presentence reports, alcohol/drug evaluations, compliance reports regarding treatment and the probation officers' reports. This also specifically identifies that correspondence received by the court regarding sentencing and compliance with the terms of probation are private records. ARLJ 9 also identified specifically the quasi public documents pertaining to presentence reports and reports related to compliance with condition of sentence, as well as correspondence received by the court regarding sentencing and compliance with the terms of probation, except when the information provided on the condition it remain confidential or when a finding of a good cause is made for its confidentiality.

The elements, as identified in subsection (b) and subsection (c) of ARLJ 9 are viewed as critical to the continued maintenance of privacy for defendants and operation of the probation departments in district and municipal courts. It is therefore respectfully requested that the amendment to GR 31(l) include such language. The proposed subsection (l) language does include much of this information, but not all. It also does not include identification of specific documents such as probation chronological records, which are viewed as an expectation of nondisclosure by probation departments.

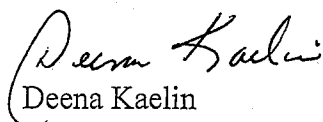
It is also respectfully suggested and recommended that the Supreme Court adopt this amendment to GR 31(l) as opposed to attempting to modify and/or adopt such provisions as a result of repealing ARLJ 9 and utilizing an amendment under General Rule 22 (GR 22). From our perspective, GR 22 is viewed primarily as designed for family court proceedings in the superior courts and does not provide the protections for privacy of the defendant and the operational necessities of municipal and district court probation issues. Should the Court consider adopting GR 22 as opposed to the amendment in GR 31(l), it is respectfully requested that the subsections in ARLJ 9 (b) and (c) pertaining to private records and quasi public documents respectively be included and amended as part of any changes to GR 22.

Under GR 22, it appears that family law matters have garnered protection because they are private actions litigated in public and similar to criminal matters. We are aware that criminal charges are also public offenses and thus public interest, but this should not outweigh the privacy interests inherent to the reports that are identified in ARLJ 9 and proposed amendment to GR 31(l). In particular, probation reports often include health information about individuals/defendants which are vital and to be protected as they have been in ARLJ 9.

Finally, it is respectfully requested that the amendment to GR 31 be even further reviewed and considered for identifying that specific documents and information identified for a particular case include such additional documents as, "witness statements, police reports, reports related to compliance with conditions of sentence, copies of driving records or criminal history records subject to RCW 10.97 and correspondence received by the court regarding sentencing and compliance with terms of probation." Should the Court be receptive to the additional proposed language, it could be merged into the existing language, as proposed by the DMCJA.

Thank you for the opportunity to comment on those proposed rule changes. Should you have further questions or need additional information whatsoever, please feel free to contact me at (253) 770-3347.

Respectfully Submitted,



Deena Kaelin  
Vice President/President Elect  
Misdemeanant Corrections Association

CHH/jab

cc: Misdemeanant Corrections Association Board