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Honorable Ronald Carpenter
Temple of Justice
Post Office Box 40929
Olympia, Washington
98504-0929

April 28, 2014

Re: Proposed Amendment to CrR 2.3 and CrRLJ 2.3

Dear Clerk Carpenter:

The Washington Association of Prosecuting Attorneys (WAPA) strongly supports amending CrR 2.3 and CrRLJ 2.3 to expressly authorize the use of newer technology to facilitate the issuance of after hour search warrants.

Recent decisions from both this Court and the United States Supreme Court will require ~~officers to seek search warrants more frequently. Many of these search warrants will be~~ "time sensitive" search warrants for blood samples. *See Missouri v. McNeely*, 133 S. Ct. 1552 (2013). The Legislature enacted Laws of 2014, Chapter 93 to accommodate this new reality. The proposed amendments to CrR 2.3 and CrRLJ 2.3 compliment the Legislature's actions.

Both Laws of 2014, Chapter 93 and the proposed amendments to CrR 2.3 and CrRLJ 2.3 represent major steps toward increased public safety. Unfortunately, there is still significant work to be done. Specifically, WAPA urges this Court to encourage the judges in every county to adopt a plan to ensure that time sensitive search warrants will be available 24 hours a day.

Thank you for considering WAPA's comments.

Sincerely,

A handwritten signature in cursive script that reads "Pamela Beth Loginsky".

Pamela B. Loginsky
Staff Attorney

Enc.

206 10th Avenue S.E. Olympia, WA 98501 (360)753-2175 Fax (360)753-3943

CERTIFICATION OF ENROLLMENT

SUBSTITUTE SENATE BILL 6279

Chapter 93, Laws of 2014

63rd Legislature
2014 Regular Session

SEARCH WARRANTS--MAGISTRATE ACCESS

EFFECTIVE DATE: 06/12/14

Passed by the Senate March 10, 2014
YEAS 47 NAYS 2

BRAD OWEN

President of the Senate

Passed by the House March 5, 2014
YEAS 98 NAYS 0

FRANK CHOPP

Speaker of the House of Representatives

Approved March 27, 2014, 10:52 a.m.

JAY INSLEE

Governor of the State of Washington

CERTIFICATE

I, Hunter G. Goodman, Secretary of the Senate of the State of Washington, do hereby certify that the attached is **SUBSTITUTE SENATE BILL 6279** as passed by the Senate and the House of Representatives on the dates hereon set forth.

HUNTER G. GOODMAN

Secretary

FILED

March 27, 2014

Secretary of State
State of Washington

SUBSTITUTE SENATE BILL 6279

AS AMENDED BY THE HOUSE

Passed Legislature - 2014 Regular Session

State of Washington 63rd Legislature 2014 Regular Session

By Senate Law & Justice (originally sponsored by Senators Kline,
Padden, O'Ban, Pedersen, and Tom)

READ FIRST TIME 02/04/14.

1 AN ACT Relating to creating effective and timely access to
2 magistrates for purposes of reviewing search warrant applications;
3 amending RCW 9A.72.085; adding a new section to chapter 2.20 RCW;
4 adding a new section to chapter 10.79 RCW; and creating a new section.

5 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF WASHINGTON:

6 NEW SECTION. **Sec. 1.** The legislature finds that recent decisions
7 of the United States supreme court and the Washington state supreme
8 court require law enforcement to obtain the review of a neutral and
9 disinterested magistrate and the issuance of a search warrant more
10 frequently before proceeding with a criminal investigation. The
11 legislature intends to accommodate this requirement by creating
12 effective and timely access to magistrates for purposes of reviewing
13 search warrant applications across the state of Washington. This act
14 does not change the legal standards for issuing a search warrant or the
15 legal standards for review of an issued search warrant.

16 NEW SECTION. **Sec. 2.** A new section is added to chapter 2.20 RCW
17 to read as follows:

1 Any district or municipal court judge, in the county in which the
2 offense is alleged to have occurred, may issue a search warrant for any
3 person or evidence located anywhere within the state.

4 NEW SECTION. **Sec. 3.** A new section is added to chapter 10.79 RCW
5 to read as follows:

6 (1) Any magistrate as defined by RCW 2.20.010, when satisfied that
7 there is probable cause, may upon application supported by oath or
8 affirmation, issue a search warrant to search for and seize any: (a)
9 Evidence of a crime; (b) contraband, the fruits of crime, or things
10 otherwise criminally possessed; (c) weapons or other things by means of
11 which a crime has been committed or reasonably appears about to be
12 committed; or (d) person for whose arrest there is probable cause or
13 who is unlawfully restrained.

14 (2) The application may be provided or transmitted to the
15 magistrate by telephone, e-mail, or any other reliable method.

16 (3) If the magistrate finds that probable cause for the issuance of
17 a warrant exists, the magistrate must issue a warrant or direct an
18 individual whom the magistrate authorizes to affix the magistrate's
19 signature to a warrant identifying the property or person and naming or
20 describing the person, place, or thing to be searched. The magistrate
21 may communicate permission to affix the magistrate's signature to the
22 warrant by telephone, e-mail, or any other reliable method.

23 (4) The evidence in support of the finding of probable cause and a
24 record of the magistrate's permission to affix the magistrate's
25 signature to the warrant shall be preserved and shall be filed with the
26 issuing court as required by CrRLJ 2.3 or CrR 2.3.

27 **Sec. 4.** RCW 9A.72.085 and 1981 c 187 s 3 are each amended to read
28 as follows:

29 (1) Whenever, under any law of this state or under any rule, order,
30 or requirement made under the law of this state, any matter in an
31 official proceeding is required or permitted to be supported,
32 evidenced, established, or proved by a person's sworn written
33 statement, declaration, verification, certificate, oath, or affidavit,
34 the matter may with like force and effect be supported, evidenced,
35 established, or proved in the official proceeding by an unsworn written
36 statement, declaration, verification, or certificate, which:

