



*Pend Oreille County*

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## DISTRICT COURT

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Hall of Justice

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*Philip J. Van de Veer*  
Judge  
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April 7, 2008

The Honorable Charles W. Johnson  
Chair, Rules Committee  
Washington Supreme Court  
Temple of Justice  
P.O. Box 40929  
Olympia, WA 98504-0929

Re: Comment to Proposed CrRLJ 4.1

Dear Justice Johnson,

Small, rural and part time courts struggle to meet requirements generally designed for large, well funded court systems with numerous judges, attorneys, and community resources.

Requiring that a prosecutor be present for CrRLJ 3.2.1 in-custody appearances will adversely impact small court systems. Many small courts employ a part-time prosecutor who appears for a scheduled criminal docket once a week or every other week. These part time prosecutors typically maintain a private practice and/or serve as a prosecutor, defender or judge in other jurisdictions. Some prosecutors live outside of the jurisdiction. Generally, these part-time prosecutors are not available for daily in-custody first appearances.

Small municipalities will not be able to afford a prosecutor to be available every day with the result that some small courts may close or consolidate. Another result will be that defendants will not be booked into jail because a prosecutor is not available the next day. Instead, defendants will be cited and released, even on more serious misdemeanors, without an appearance before a judge who can set conditions of release designed to protect public safety.

The reason for requiring that the prosecutor read the charge is to avoid a potential appearance of judicial bias. With due respect, I suggest that limited jurisdiction judges are quite capable of advising a defendant of a criminal charge in a manner that does not evidence bias. Any benefit derived from requiring daily prosecutor presence is outweighed by the adverse impact on small court systems.

Under the proposed CrRLJ 4.1(c), "A defendant shall not be arraigned unless counsel is present to assist the defendant at arraignment." If this section is adopted, then the presence of counsel should include telephonic presence when necessary. For example, Pend Oreille County District and Superior courts are both part time courts. The public defenders work in other jurisdictions with only one defender living in the county. On occasion, a public defender can only be available by courtroom telephone for an in-custody first appearance.

Sincerely,

A handwritten signature in cursive script that reads "Philip J. Van de Veer". The signature is written in black ink and is positioned below the word "Sincerely,".

Judge Philip J. Van de Veer