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April 16, 2015

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

Dear Justice Johnson,

RE: PROPOSED REPEAL OF CrRLJ 2.1(C)

Thank you for inviting comment on the Washington State Bar Association's (WSBA) proposed repeal of CrRLJ 2.1(c), Citizen Complaints. The District and Municipal Court Judges' Association (DMCJA) supports repeal of this provision.

The DMCJA has proposed repealing CrRLJ 2.1(c) on four occasions since 1987. The primary concern of the DMCJA is that CrRLJ 2.1(c) violates the separation of powers doctrine, requiring a judge to serve as both prosecutor and judicial officer. This concern is shared by the WSBA. (See WSBA GR 9 Coversheet re: CrRLJ 2.1(c)).

The Washington State Supreme Court has stated that the prosecuting attorney's core function is the exercise of discretion in charging decisions, and under the separation of powers doctrine this discretion shall not be interfered with by the legislative or judicial branches. State v. Rice, 174 Wn.2d 884 (2012). The decision to determine and file appropriate charges is vested in the prosecuting attorney as a member of the executive branch. State v. Walsh, 143 Wn.2d 1 (2001); State v. Meacham, 154 Wn.App. 467 (2010). It is improper for the court to assume authority for prosecutorial decisions, especially via a court rule, as court rules are reserved for procedural matters.

CrRLJ 2.1(c) violates the separation of powers doctrine by encroaching on a prosecuting attorney's charging discretion and imposing duties upon the judiciary as to whether a criminal case may be filed. Therefore, the DMCJA again asks that this provision be repealed.

Sincerely,

Judge David A. Steiner
DMCJA President

cc: Judge Janet Garrow, DMCJA Rules Committee Chair
Ms. Jennifer Benway, AOC Staff

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