

JAIME M. HAWK
LEGAL STRATEGY DIRECTOR
WASHINGTON CAMPAIGN FOR
SMART JUSTICE



April 26, 2016

Clerk, Washington Supreme Court
P.O. Box 40929
Olympia, WA 98504-0929
supreme@courts.wa.gov

Re: Proposed Amendment to CrRLJ 3.2
Comment Deadline 4/30/16

Dear Justices of the Supreme Court:

AMERICAN CIVIL
LIBERTIES UNION OF
WASHINGTON

901 5TH AVENUE, SUITE 630
SEATTLE, WA 98164
T/206.624.2184
WWW.ACLU-WA.ORG

JEAN ROBINSON
BOARD PRESIDENT

KATHLEEN TAYLOR
EXECUTIVE DIRECTOR

The American Civil Liberties Union of Washington (ACLU) respectfully submits this comment in opposition to the proposed amendment to CrRLJ 3.2. Following the Court's decision in *State v. Barton*, 181 Wn.2d 148 (2014), a proposed amendment was submitted to remove (b)(4) from CrR 3.2 and later CrRLJ 3.2. The proposed amendment to CrRLJ 3.2 seeks to eliminate the (b)(4) cash appearance bond option available to judges. The ACLU urges the Court to retain (b)(4). We support the comments and proposed language submitted by the Washington State Bar Association Council on Public Defense (CPD) and by Judge Deborah Fleck.

There is growing focus nationally and statewide on the inequities and disparities inherent in the current money bail system. Efforts are underway to collect statewide pretrial data regarding current pretrial detention rates and bail practices in Washington. Early data has found that pretrial detention can represent more than 60 percent of the jail population, and that a large portion of those detained are held on relatively small bail amounts of \$5,000 or less. They are jailed on bail awaiting trial because they are too poor to pay. Select county data also indicates significant racial disparities and that those held on bail are disproportionately people of color. Money bail practices can unfairly impact the poor, communities of color, and people with certain disabilities.

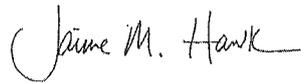
As we learn more about the harmful and consequential impacts of pretrial detention, it is important to ensure that CrRLJ 3.2 and CrR 3.2 provide judges with the maximum number of options to construct the least restrictive conditions and form of bail necessary for an individual defendant's future appearance in court. The cash appearance bond option in CrRLJ(b)(4) allows the court discretion to order an amount not to exceed 10% of the bond value without use of a commercial surety. This option should be available for poor and low-income individuals who are unable to secure a bond with property or a commercial surety. The option of having the money returned at the end of the case also avoids significant financial hardship for indigent individuals and their families and is consistent with the purpose of bail.

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For all of the above reasons, we urge you to reject the proposed amendment to CrRLJ 3.2, and adopt the language proposed by the CPD and Judge Fleck for both CrRLJ 3.2 and CrR 3.2.

We look forward to continued engagement with stakeholders around these important pretrial issues.

Sincerely,

A handwritten signature in cursive script that reads "Jaime M. Hawk". The signature is written in black ink and is positioned above the printed name.

JAIME M. HAWK

Tracy, Mary

From: OFFICE RECEPTIONIST, CLERK
Sent: Friday, April 29, 2016 1:19 PM
To: Tracy, Mary
Subject: FW: Comment on Proposed Amendment to CrRLJ 3.2
Attachments: ACLU-WA comment on Proposed Amendment to CrRLJ 3.2, FINAL.pdf; ATT00001.htm

Supreme Court Clerk's Office

Please note that any pleading filed as an attachment to e-mail will be treated as the original. Therefore, if a filing is by e-mail attachment, it is not necessary to mail to the court the original of the document.

-----Original Message-----

From: Jaime Hawk [mailto:jhawk@aclu-wa.org]
Sent: Friday, April 29, 2016 1:12 PM
To: OFFICE RECEPTIONIST, CLERK <SUPREME@COURTS.WA.GOV>
Subject: Comment on Proposed Amendment to CrRLJ 3.2

Dear Supreme Court Rules Committee,

Please find attached a comment from the ACLU of Washington on the proposed amendment to CrRLJ 3.2.

Warm regards,

Jaime

Jaime Hawk
Legal Strategy Director
Washington Campaign for Smart Justice
ACLU of Washington

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