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

**ACLU**

AMERICAN CIVIL LIBERTIES UNION

Washington

September 30, 2020

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

Re: Proposed Amendment to CrR 3.4 and CrRLJ 3.4
Comment Deadline 9/30/20

Dear Justices of the Supreme Court:

The American Civil Liberties Union of Washington respectfully submits this comment in support of the proposed amendments to CrR 3.4 and CrRLJ 3.4 to allow some criminal court hearings to proceed without a defendant's physical presence.

As we have seen throughout the COVID-19 public health crisis, courts have implemented significant changes to daily operations and court proceedings in order to keep all parties safe. With the guidance of emergency orders from this Court, trial courts have adapted practices to address the current dangers of in-person court appearances. In many cases, this has resulted in the elimination of mandatory in-person court appearances. Defense counsel have been appearing on behalf of their clients without the client needing to be physically present. These responses to the COVID-19 pandemic have shown us what is possible and why the proposed amendments to CrR 3.4 and CrRLJ 3.4 should be adopted.

The proposed amendments to CrR 3.4 and CrRLJ 3.4 will promote fairness and result in the more efficient administration of justice, especially for the increasing number of indigent defendants who are facing even greater economic hardship and struggle due to the pandemic.

As we know, the criminal legal system disproportionately and unfairly impacts those who are living in poverty, communities of color, and people with certain disabilities. Research shows that many people who miss court are experiencing difficulties with transportation, childcare, job disruption, homelessness, health problems, mental illness and other challenges often related to poverty. Many had difficult life circumstances that made it hard or impossible to attend a court hearing on a particular day. Reducing the number of required court appearances for defendants will significantly reduce the number of missed court hearings, unnecessary bench warrants, and the harmful and consequential impacts of pretrial detention that often result from the bench warrant.

AMERICAN CIVIL
LIBERTIES UNION OF
WASHINGTON

PO BOX 2728
SEATTLE, WA 98111
T/206.624.2184
WWW.ACLU-WA.ORG
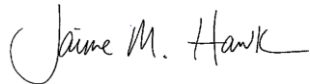
TANA LINN
BOARD PRESIDENT

MICHELE STORMS
EXECUTIVE DIRECTOR

As the Washington Defender Association (WDA) has explained in its letter to the Court dated September 30, 2020, the proposed amendment that was initially submitted pre-COVID does not go far enough. Given the extraordinary changes since COVID-19 and the rules implemented by the Washington State Supreme Court in its emergency orders, we also support the additions to the original proposal submitted by WDA. We also ask that the Court adopt the proposal without publishing the slightly altered version for a new set of comments given the extraordinary changes since COVID-19.

For the above reasons, we urge you to adopt the proposed language to CrR 3.4 and CrRLJ 3.4 that has been submitted by WDA.

Thank you for your consideration.

Respectfully,

JAIME M. HAWK

**From:** Jaime Hawk [mailto:jhawk@aclu-wa.org]
**Sent:** Wednesday, September 30, 2020 5:08 PM
**To:** OFFICE RECEPTIONIST, CLERK <SUPREME@COURTS.WA.GOV>
**Subject:** Comment in support of proposed amendment to CrR 3.4 and CrRLJ 3.4

Thank you for the opportunity to comment on the proposed amendment to CrR 3.4 and CrRLJ 3.4. The ACLU of Washington's comment is attached.

Warm regards,

Jaime

Jaime Hawk
Legal Strategy Director
Washington Campaign for Smart Justice
ACLU of Washington
Pronouns: she, her

**t** 206.624.2184 ext. 294
jhawk@aclu-wa.org
www.aclu-wa.org